

## SENATE BILL NO. 542

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on \_\_\_\_\_)

(Patron Prior to Substitute—Senator Aird)

*A BILL to amend and reenact §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1600, 4.1-1601, 4.1-1602, 4.1-1603, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1407, by adding a section numbered 4.1-1602.1, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.*

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

- 1. That §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502,**

4.1-1600, 4.1-1601, 4.1-1602, 4.1-1603, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1407, by adding a section numbered 4.1-1602.1, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426 as follows:

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

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

1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;
2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use

individually, in their families, or in their communities;

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

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

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

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

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

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

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

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

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including ~~but not limited to the~~ X-ray tube, filter, compression device,

93 screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of  
94 each breast.

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

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

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

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

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

114 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the  
115 resolution of such complaints and shall be published and disseminated to all covered state employees. The  
116 appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured  
117 governmental health plans. The appeals process shall include a separate expedited emergency appeals  
118 procedure that shall provide resolution within time frames established by federal law. For appeals involving  
119 adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent  
120 review organizations to review such decisions. Independent review organizations are entities that conduct  
121 independent external review of adverse benefit determinations. The Department shall adopt regulations to  
122 assure that the independent review organization conducting the reviews has adequate standards, credentials,

and experience for such review. The independent review organization shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

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

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

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

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

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

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

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

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

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

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

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one prostate-specific antigen test in a 12-month period and digital rectal examinations.

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

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

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the

210 plan to render health care services to any of the covered employees who (i) were in an active course of  
211 treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care  
212 services from the provider.

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

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

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

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

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

232 For purposes of this subdivision:

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

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

238 "Multiple project assurance contract" means a contract between an institution and the federal Department



of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

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

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

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

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

a. The National Cancer Institute;

b. An NCI cooperative group or an NCI center;

c. The FDA in the form of an investigational new drug application;

d. The federal Department of Veterans Affairs; or

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

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

Coverage under this subdivision shall apply only if:

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

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

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

268 established by the plan.

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

275 17. Include coverage for biologically based mental illness.

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

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

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

291 18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery  
292 or such other methods as may be recognized by the National Institutes of Health as effective for the long-term  
293 reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments,  
294 and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for  
295 morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National  
296 Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100

pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition, or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

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

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

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

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums, and other payments shall be deposited in

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

D. For the purposes of this section:

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

"Standard reference compendia" means:

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

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

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

F. Any self-insured group health insurance plan established by the Department of Human Resource

Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

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

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

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

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

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

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

386 device to a patient primarily by mail, common carrier, or delivery service.

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

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

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

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

399 The Ombudsman shall:

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

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

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

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

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

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

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

maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

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

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

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

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

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

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

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

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating

444 physician or osteopath shall (i) include language in the member handbook that notifies the covered employee  
445 of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include  
446 this language with any such payment sent to the covered employee or covered family member, and (iii)  
447 include the name and any last known address of the nonparticipating provider on the explanation of benefits  
448 statement.

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

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

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

463 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

464 The provisions of this chapter shall not apply to:

- 465 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 466 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 467 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house  
468 thereof is required or not;
- 469 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 470 5. Members of boards and commissions however selected;
- 471 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
472 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries



473 public;

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

476 8. The presidents and teaching and research staffs of state educational institutions;

477 9. Commissioned officers and enlisted personnel of the National Guard;

478 10. Student employees at institutions of higher education and patient or inmate help in other state  
479 institutions;

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

482 12. County, city, town, and district officers, deputies, assistants, and employees;

483 13. The employees of the Virginia Workers' Compensation Commission;

484 14. The officers and employees of the Virginia Retirement System;

485 15. Employees whose positions are identified by the State Council of Higher Education and the boards of  
486 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,  
487 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,  
488 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of  
489 the Department of Human Resource Management as requiring specialized and professional training;

490 16. Employees of the Virginia Lottery;

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

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

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

499 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,  
500 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy  
501 or administration. An employee serving in either one of these two positions shall be deemed to serve on an

502 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

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

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

506 23. Employees of the Commonwealth Savers Plan;

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

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

514 26. Employees of the Virginia Indigent Defense Commission;

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

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

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

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

522 **§ 2.2-3114. Disclosure by state officers and employees.**

523 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor,  
524 Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court,  
525 judges and substitute judges of any district court, members of the State Corporation Commission, members of  
526 the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board,  
527 members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of  
528 the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia*  
529 *Cannabis Control Authority*, members of the board of directors of the Commonwealth of Virginia Innovation  
530 Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the  
531 Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state  
532 government, including members of the governing bodies of authorities, as may be designated by the

Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

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

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

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

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

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

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

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

588 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

590 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
591 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
592 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
593 schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
594 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting

in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

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

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

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

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

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

652 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to

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

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

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

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

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

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

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of

visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the



Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

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

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

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

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

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement

744 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by  
745 either of the parties.

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

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

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

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

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

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

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

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

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

774 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in

subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

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

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

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

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

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

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

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

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

transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

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

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

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

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

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

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

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of

any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

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

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

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

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or

867 schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
868 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting  
869 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some  
870 student and the student involved in the matter is present, provided that the teacher makes a written request to  
871 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be  
872 construed to authorize a closed meeting by a local governing body or an elected school board to discuss  
873 compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

896 be construed to permit the closure of a meeting merely because an attorney representing the public body is in  
897 attendance or is consulted on a matter.

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

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

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

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

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

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

925 conducted in a closed meeting.

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

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

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

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

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

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

953 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of  
954 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of



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

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

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center

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

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

1004 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the  
1005 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who  
1006 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1007 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal  
1008 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf  
1009 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or  
1010 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1011 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
1012 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in  
1013 § 56-484.12, related to the provision of wireless E-911 service.

1014 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
1015 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy

1016 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or  
1017 meetings of health regulatory boards or conference committees of such boards to consider settlement  
1018 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by  
1019 either of the parties.

1020 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6  
1021 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
1022 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
1023 public entity concerning such records.

1024 29. Discussion of the award of a public contract involving the expenditure of public funds, including  
1025 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in  
1026 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

1027 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
1028 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1029 31. Discussion or consideration by the Commitment Review Committee of information subject to the  
1030 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent  
1031 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1032 32. Discussion or consideration of confidential proprietary information and trade secrets developed and  
1033 held by a local public body providing certain telecommunication services or cable television services and  
1034 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
1035 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

1036 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
1037 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
1038 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1039 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security  
1040 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections  
1041 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

1042 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
1043 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

1044 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
1045 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings  
1046 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider

1047 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover  
1048 scholarship awards.

1049 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in  
1050 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port  
1051 Authority.

1052 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
1053 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by  
1054 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan  
1055 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee  
1056 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

1057 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6  
1058 related to economic development.

1059 40. Discussion or consideration by the Board of Education of information relating to the denial,  
1060 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1061 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by  
1062 executive order for the purpose of studying and making recommendations regarding preventing closure or  
1063 realignment of federal military and national security installations and facilities located in Virginia and  
1064 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a  
1065 local governing body, during which there is discussion of information subject to the exclusion in subdivision  
1066 8 of § 2.2-3705.2.

1067 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
1068 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
1069 information of donors.

1070 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
1071 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained  
1072 in grant applications.

1073 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of  
1074 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for  
1075 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary  
1076 information of a private entity provided to the Authority.

1077 45. Discussion or consideration of personal and proprietary information related to the resource

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

1083 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control  
1084 Authority *or the Board of Directors of the Virginia Cannabis Control Authority* of information subject to the  
1085 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and  
1086 of licensees and permittees.

1087 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion  
1088 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)  
1089 of Chapter 22.

1090 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26  
1091 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity  
1092 Board.

1093 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team  
1094 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a  
1095 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases  
1096 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and  
1097 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established  
1098 pursuant to § 15.2-1627.6.

1099 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
1100 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions  
1101 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33  
1102 of § 2.2-3705.7.

1103 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development  
1104 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information  
1105 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the  
1106 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

1107 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the  
1108 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of

1109 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1110 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or  
1111 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of  
1112 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to  
1113 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1114 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding  
1115 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting  
1116 and any discussion, consideration, or review of matters related to investigations excluded from mandatory  
1117 disclosure under subdivision 1 of § 2.2-3705.3.

1118 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of  
1119 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

1120 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed  
1121 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting  
1122 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that  
1123 shall have its substance reasonably identified in the open meeting.

1124 C. Public officers improperly selected due to the failure of the public body to comply with the other  
1125 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
1126 obtain notice of the legal defect in their election.

1127 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more  
1128 public bodies, or their representatives, but these conferences shall be subject to the same procedures for  
1129 holding closed meetings as are applicable to any other public body.

1130 E. This section shall not be construed to (i) require the disclosure of any contract between the Department  
1131 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)  
1132 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial  
1133 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial  
1134 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.  
1135 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the  
1136 actual date of the board's authorization of the sale or issuance of such bonds.

1137 **§ 2.2-3802. Systems to which chapter inapplicable.**

1138 The provisions of this chapter shall not apply to personal information systems:

- 1139 1. Maintained by any court of the Commonwealth;
- 1140 2. Which may exist in publications of general circulation;
- 1141 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in
- 1142 the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant
- 1143 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on
- 1144 the Internet pursuant to § 9.1-913;
- 1145 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
- 1146 16.1-225;
- 1147 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to
- 1148 engage in the practice of any profession, in which case the names and addresses of persons applying for or
- 1149 possessing the license may be disseminated upon written request to a person engaged in the profession or
- 1150 business of offering professional educational materials or courses for the sole purpose of providing the
- 1151 licensees or applicants for licenses with informational materials relating solely to available professional
- 1152 educational materials or courses, provided the disseminating agency is reasonably assured that the use of the
- 1153 information will be so limited;
- 1154 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,
- 1155 the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, ~~and~~ the Virginia Alcoholic
- 1156 Beverage Control Authority, *and the Virginia Cannabis Control Authority*;
- 1157 7. Maintained by any of the following and that deal with investigations and intelligence gathering related
- 1158 to criminal activity:
- 1159 a. The Department of State Police;
- 1160 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
- 1161 c. Police departments of cities, counties, and towns;
- 1162 d. Sheriff's departments of counties and cities;
- 1163 e. Campus police departments of public institutions of higher education as established by Article 3
- 1164 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
- 1165 f. The Division of Capitol Police.
- 1166 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect
- 1167 while such cases are also subject to an ongoing criminal prosecution;
- 1168 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1169 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of  
1170 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting  
1171 information on those subjects may be disseminated upon written request to a person engaged in the business  
1172 of providing travel services or distributing travel information, provided the Virginia Tourism Authority is  
1173 reasonably assured that the use of the information will be so limited;

1174 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General  
1175 Services and the Department of Forensic Science, which deal with scientific investigations relating to  
1176 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1177 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal  
1178 with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2  
1179 (§ 2.2-307 et seq.);

1180 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state  
1181 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and  
1182 Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a  
1183 school board that deals with local investigations required by § 15.2-2511.2;

1184 14. Maintained by the Department of Social Services or any local department of social services relating to  
1185 public assistance fraud investigations;

1186 15. Maintained by the Department of Social Services related to child welfare or public assistance  
1187 programs when requests for personal information are made to the Department of Social Services. Requests  
1188 for information from these systems shall be made to the appropriate local department of social services that is  
1189 the custodian of that record. Notwithstanding the language in this section, an individual shall not be  
1190 prohibited from obtaining information from the central registry in accordance with the provisions of  
1191 § 63.2-1515; and

1192 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult  
1193 protective services, or auxiliary grants when requests for personal information are made to the Department for  
1194 Aging and Rehabilitative Services. Requests for information from these systems shall be made to the  
1195 appropriate local department of social services that is the custodian of that record.

1196 **§ 2.2-4024. Hearing officers.**

1197 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a  
1198 hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained



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

1205 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1206 1. Active membership in good standing in the Virginia State Bar;

1207 2. Active practice of law for at least five years; and

1208 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order  
1209 to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive  
1210 Secretary may require additional training before a hearing officer shall be assigned to a proceeding before  
1211 that agency.

1212 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the  
1213 list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic  
1214 preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency  
1215 demonstrates the need.

1216 C. A hearing officer appointed in accordance with this section shall be subject to disqualification as  
1217 provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1,  
1218 the petitioning party may request reconsideration of the denial by filing a written request with the Executive  
1219 Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the  
1220 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule  
1221 of practice requiring disqualification.

1222 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1223 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case  
1224 decision matter shall render that recommendation or conclusion as follows:

1225 1. If the agency's written regulations or procedures require the hearing officer to render a recommendation  
1226 or conclusion within a specified time period, the hearing officer shall render the recommendation or  
1227 conclusion on or before the expiration of the specified period; and

1228 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days

1229 from the date of the case decision proceeding or from a later date agreed to by the named party and the  
1230 agency.

1231 If the hearing officer does not render a decision within the time required by this subsection, then the  
1232 agency or the named party to the case decision may provide written notice to the hearing officer and the  
1233 Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from  
1234 receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove  
1235 the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for  
1236 possible disciplinary action, unless good cause is shown for the delay.

1237 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after  
1238 written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a  
1239 decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the  
1240 delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for  
1241 reconsideration, followed by judicial review in accordance with this chapter.

1242 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the  
1243 members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia*  
1244 *Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation  
1245 Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2  
1246 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle  
1247 Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory  
1248 board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to  
1249 the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the  
1250 Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the  
1251 minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in  
1252 the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall  
1253 participate in periodic training courses.

1254 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing  
1255 officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources,  
1256 the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority  
1257 pursuant to their basic laws.

1258 *PART D.*

1259 *STATE AND TRIBAL RELATIONS.*

1260 *CHAPTER 61.*

1261 *GENERAL PROVISIONS.*

1262 **§ 2.2-6100. Governor compacts with tribal government; marijuana; requirements.**

1263 *A. For the purpose of this section:*

1264 *"Marijuana" means the same as that term is defined in § 4.1-600.*

1265 *"Marijuana establishment" means the same as that term is defined in § 4.1-600.*

1266 *"Marijuana industry" means every item, product, person, process, action, business, or other thing or*  
1267 *activity related to marijuana or marijuana products and subject to regulation under the law of a Virginia*  
1268 *Tribal government or under a compact entered into under this section.*

1269 *"Marijuana products" means the same as that term is defined in § 4.1-600.*

1270 *"Tribal marijuana business" means a marijuana cultivation facility, microbusiness, delivery operator,*  
1271 *testing facility, processing facility, transporter, or retail marijuana store licensed by a Virginia Tribal*  
1272 *government, as well as any other marijuana-related business that may be provided or licensed under the laws*  
1273 *of a Virginia Tribal government.*

1274 *"Tribally regulated land" means (i) all land held in trust by the United States for the benefit of a Virginia*  
1275 *Tribal government, also known as trust land, and (ii) all land held by a Virginia Tribal government in*  
1276 *restricted fee status.*

1277 *"Virginia Tribal government" means the following federally recognized Indian Tribes located in the*  
1278 *Commonwealth:*

1279 *1. Chickahominy Indian Tribe;*

1280 *2. Chickahominy Indian Tribe-Eastern Division;*

1281 *3. Monacan Indian Nation;*

1282 *4. Nansemond Indian Nation;*

1283 *5. Pamunkey Indian Tribe;*

1284 *6. Rappahannock Indian Tribe;*

1285 *7. Upper Mattaponi Tribe.*

1286 *B. The Commonwealth acknowledges the sovereign right of Virginia Tribal governments to regulate the*  
1287 *marijuana industry and address other matters of marijuana regulation related to the internal affairs of*  
1288 *Virginia Tribal governments or otherwise on Tribally regulated land, without regard to whether such*  
1289 *Virginia Tribal government has entered into a compact authorized by this section. The Governor or his*

1290 *designee shall negotiate in good faith and has the authority to execute and bind the Commonwealth to a*  
1291 *compact with any Virginia Tribal government wishing to enter into such compact regulating marijuana and*  
1292 *marijuana products.*

1293 *C. A compact agreed to under this section may address any issues related to the marijuana industry that*  
1294 *affect the interests of both the Commonwealth and Virginia Tribal governments or otherwise have an impact*  
1295 *on Tribal-state relations. Indian tribes are not required to enter into compacts pursuant to this section in*  
1296 *order to (i) regulate the marijuana industry or engage in marijuana businesses or activities on Tribally*  
1297 *regulated lands or (ii) participate as a licensee in the Commonwealth's legal marijuana market.*

1298 *D. The Commonwealth shall not, as a condition for entering into a compact under this section:*

1299 *1. Require any Virginia Tribal government to waive any right, privilege, or immunity based on their status*  
1300 *as independent sovereigns;*

1301 *2. Require that any revenue generated by a Tribal marijuana business be subject to any license or*  
1302 *privilege tax imposed by a locality pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 or any taxes*  
1303 *authorized pursuant to § 4.1-1004;*

1304 *3. Require any taxes collected by Virginia Tribal governments to be shared in any manner with the*  
1305 *Commonwealth or any political subdivisions thereof;*

1306 *4. Require a Virginia Tribal government to consent to state licensing of marijuana businesses on the*  
1307 *Tribally regulated land;*

1308 *5. Require any Virginia Tribal government or Tribal marijuana business to comply with specific state law*  
1309 *or regulations on Tribally regulated land; or*

1310 *6. Impose or attempt to impose or require or attempt to require any Virginia Tribal government to impose*  
1311 *any taxes, fees, assessments, and other charges related to the cultivation, processing, sale, purchase,*  
1312 *transportation, delivery, or possession of marijuana or marijuana products on Virginia Tribal governments*  
1313 *or their members on Tribally regulated land.*

1314 *E. Compacts agreed to under this section may allow an exemption from any otherwise applicable tax for*  
1315 *(i) sales to a Virginia Tribal government, a Tribal marijuana business, or Tribal members of marijuana or*  
1316 *marijuana products cultivated or processed as provided for in such compacts or (ii) activities of Tribal*  
1317 *marijuana businesses.*

1318 *F. Without limiting any immunity or exemption that may apply under federal law, the following acts, when*  
1319 *performed by a Tribal marijuana business or an employee in the course of their employment for a Tribal*  
1320 *marijuana business, pursuant to a compact entered into pursuant to this section, do not constitute a criminal*

1321 *or civil offense under state law:*

1322 *1. The cultivation of marijuana and the processing of marijuana or marijuana products;*

1323 *2. The possession, purchase, and receipt of marijuana or marijuana products that are properly tested,*  
1324 *packaged, and labeled as authorized under a compact entered into pursuant to this section or the sale,*  
1325 *delivery, transport, or distribution of such marijuana or marijuana products to a licensed marijuana*  
1326 *establishment; and*

1327 *3. The delivery, distribution, or sale of marijuana or marijuana products as authorized under a compact*  
1328 *entered into pursuant to this section and that takes place on, or originates from, the premises of a Tribal*  
1329 *marijuana business on Tribally regulated land, to any person 21 years of age or older.*

1330 *G. The following acts, when performed by a patron of a Tribal marijuana business, do not constitute a*  
1331 *criminal or civil offense under state law: the purchase, possession, or receipt of marijuana or marijuana*  
1332 *products by a person 21 years of age or older as authorized under a compact entered into pursuant to this*  
1333 *section.*

1334 *H. Without limiting any immunity or exemption that may apply under federal law, actions by a Tribal*  
1335 *marijuana business or a Tribal member, employee, or agent of a Virginia Tribal government or Tribal*  
1336 *marijuana business on Tribally regulated land pursuant to Tribal laws governing marijuana, or a compact*  
1337 *entered into under this section, do not constitute a criminal or civil offense under state law.*

1338 *I. The following acts, when performed by a licensed marijuana establishment or an employee of such*  
1339 *licensed marijuana establishment, and which would be permitted pursuant to the Cannabis Control Act*  
1340 *(§ 4.1-600 et seq.) if undertaken with another licensed marijuana establishment, shall be permitted when*  
1341 *undertaken with a Tribal marijuana business and do not constitute a criminal or civil offense under state law:*  
1342 *the possession, purchase, wholesale and retail sale, delivery, transport, distribution, and receipt of marijuana*  
1343 *or marijuana products that are properly tested, packaged, and labeled as authorized under a compact*  
1344 *entered into pursuant to this section.*

1345 *J. Without limiting any immunity or exemption that may apply under federal law, the following acts, when*  
1346 *performed by a Virginia Tribal government, a Tribal marijuana business, or an employee of such Tribal*  
1347 *government or Tribal marijuana business, regardless of whether the Virginia Tribal government issuing such*  
1348 *license has entered into a compact with the Commonwealth under this section, do not constitute a criminal or*  
1349 *civil offense under state law: purchase, sale, receipt, or delivery, including delivery that involves transit*  
1350 *through the Commonwealth outside a reservation, of marijuana or marijuana products from or to another*  
1351 *Virginia Tribal government or Tribal marijuana business.*

1352 K. Notwithstanding any other provision of law, a marijuana testing facility, as defined in § 4.1-600, may  
1353 provide testing services to a Tribal marijuana business and the possession or transport of marijuana or  
1354 marijuana products for such purpose by a Tribal marijuana business shall not constitute a criminal or civil  
1355 offense under state law.

1356 L. The Governor shall post any compact entered into pursuant this section on a publicly accessible  
1357 website.

1358 **§ 3.2-4113. Production of industrial hemp lawful.**

1359 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his  
1360 agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful  
1361 purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11  
1362 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the  
1363 possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration  
1364 that does not exceed the total tetrahydrocannabinol concentration percentage established in federal  
1365 regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his agent or  
1366 processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,  
1367 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the possession,  
1368 handling, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or  
1369 proceeding brought for the enforcement of any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*,  
1370 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall  
1371 not be necessary to negate any exception, excuse, proviso, or exemption contained in this article or the Drug  
1372 Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the  
1373 defendant.

1374 B. Nothing in this article shall be construed to authorize any person to violate any federal law or  
1375 regulation.

1376 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,  
1377 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the involuntary growth of industrial hemp through the  
1378 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage  
1379 site, or process site.

1380 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1381 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the  
1382 Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for*

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

**§ 4.1-600. Definitions.**

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

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

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

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

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

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

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

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

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

1414 "Edible marijuana product" means a marijuana product intended to be consumed orally, including  
1415 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

1416 *"Hemp product" means the same as that term is defined in § 3.2-4112.*

1417 *"Historically economically disadvantaged community" means either (i) a jurisdiction identified by the*  
1418 *Board utilizing census tract data made available by the United States Census Bureau in which offenses for*  
1419 *marijuana possession were committed at a rate in excess of 150 percent of the statewide average for*  
1420 *marijuana possession offenses during the 10-year period of 2009 to 2019 or (ii) a historically underutilized*  
1421 *business zone as defined in 15 U.S.C. § 657a.*

1422 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider  
1423 than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

1424 *"Impact licensee" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-606.*

1425 *"Industrial hemp" means the same as that term is defined in § 3.2-4112.*

1426 *"Industrial hemp extract" means the same as that term is defined in § 3.2-5145.1.*

1427 *"Inhalable marijuana product" means a marijuana product intended to be inhaled, including marijuana*  
1428 *intended to be inhaled or marijuana concentrate intended to be inhaled.*

1429 "Licensed" means the holding of a valid license granted by the Authority.

1430 "Licensee" means any person to whom a license has been granted by the Authority.

1431 ~~"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing,~~  
1432 ~~compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or~~  
1433 ~~preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation~~  
1434 ~~or testing.~~

1435 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin;  
1436 and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,  
1437 or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of  
1438 such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such  
1439 stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp, as  
1440 ~~defined in § 3.2-4112~~, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his  
1441 agent; (iii) industrial hemp, as ~~defined in § 3.2-4112~~, that is possessed by a person who holds a hemp  
1442 producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp  
1443 product, as ~~defined in § 3.2-4112~~; (v) an industrial hemp extract, as ~~defined in § 3.2-5145.1~~; or (vi) any  
1444 substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether



1445 that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act  
1446 (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

1447 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active  
1448 cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant  
1449 is a concentrate for purposes of this subtitle.

1450 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and  
1451 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana  
1452 cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and  
1453 marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail  
1454 marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer  
1455 possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana  
1456 plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use  
1457 § 4.1-800.

1458 "Marijuana delivery operator" means an entity licensed under § 4.1-805.

1459 "Marijuana establishment" means a marijuana cultivation facility, a marijuana microbusiness, marijuana  
1460 delivery operator, marijuana testing facility, a marijuana manufacturing processing facility, a marijuana  
1461 wholesaler transporter, or a retail marijuana store.

1462 "Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and  
1463 package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana  
1464 from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession  
1465 of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or  
1466 other marijuana manufacturing facilities.

1467 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either  
1468 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,  
1469 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,  
1470 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the  
1471 human body marijuana.

1472 "Marijuana processing facility" means a facility licensed under § 4.1-801.

1473 "Marijuana products" means (i) products that are composed of marijuana and other ingredients and are  
1474 intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

1475 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test  
1476 marijuana, marijuana products, and other substances § 4.1-806.

1477 "Marijuana wholesaler transporter" means a facility licensed under this subtitle to purchase or take  
1478 possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds  
1479 from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and  
1480 to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants,  
1481 and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana  
1482 store, or another marijuana wholesaler § 4.1-804.

1483 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed  
1484 marijuana establishment.

1485 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a  
1486 licensed marijuana establishment.

1487 "Microbusiness" means a facility licensed under § 4.1-803.

1488 "Outdoor cultivation" means cultivation in an area exposed to natural sunlight and open to environmental  
1489 conditions, including variable temperature, precipitation, and wind.

1490 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
1491 designated in the application for a license as the place at which the cultivation, manufacture processing, sale,  
1492 or testing of retail marijuana or retail marijuana products shall be performed; except that portion of any such  
1493 building or other improvement actually and exclusively used as a private residence.

1494 "Principal" means any individual who solely or together with his immediate family members (i) owns or  
1495 controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee or  
1496 permittee (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other  
1497 ownership interests of such entity, and any person who manages marijuana establishment operations on  
1498 behalf of a licensee or permittee.

1499 "Processing" or "process" means the production of marijuana products or the blending, infusing,  
1500 compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or  
1501 preparation by means of chemical synthesis. "Processing" or "process" does not include cultivation or  
1502 testing.

1503 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,  
1504 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,  
1505 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

1506 "Residence" means any building or part of a building or structure where a person resides, but does not  
1507 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a  
1508 hotel or club other than a private guest room thereof.

1509 ~~"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana~~  
1510 ~~establishment.~~

1511 ~~"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed~~  
1512 ~~marijuana establishment.~~

1513 ~~"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of~~  
1514 ~~retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana~~  
1515 ~~cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana,~~  
1516 ~~retail marijuana products, immature marijuana plants, or marijuana seeds to consumers § 4.1-802.~~

1517 *"Security" means the same as that term is defined in § 13.1-501. If the Board finds that any obligation,*  
1518 *stock, or other equity interest creates control of or voice in the management operations of an entity in the*  
1519 *manner of a security, then such interest shall be considered a security.*

1520 "Sale" and "sell" includes soliciting or receiving an order ~~for~~; keeping, offering, or exposing for sale;  
1521 peddling, exchanging, or bartering; or delivering ~~otherwise~~ *other* than gratuitously, by any means; ~~retail~~  
1522 ~~marijuana or retail marijuana products.~~

1523 *"Secure agricultural greenhouse" means an enclosed structure that has transparent walls and roofing and*  
1524 *is used for controlled-environment agriculture.*

1525 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has  
1526 designated as a law-enforcement officer pursuant to this subtitle.

1527 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances  
1528 for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or ~~manufacturing~~  
1529 *processing.*

1530 "Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

1531 *"Topical marijuana product" means a marijuana product intended to be applied topically to the skin,*  
1532 *including marijuana intended to be applied topically to the skin or marijuana concentrate intended to be*  
1533 *applied topically to the skin.*

1534 "Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

1535 **§ 4.1-601. Virginia Cannabis Control Authority created; statement of purpose.**

1536 A. The General Assembly has determined that there exists in the Commonwealth a need to control the

1537 possession, sale, transportation, distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in  
1538 the Commonwealth. *Further, the General Assembly finds that laws prohibiting the use and sale of marijuana*  
1539 *have been ineffective and have had devastating collateral consequences for individuals and communities*  
1540 *across the Commonwealth, disproportionately impacting African Americans. The purpose of this subtitle is to*  
1541 *create an approach to marijuana regulation that is rooted in principles of restorative justice, economic*  
1542 *equity, and public health in order to generate significant revenue dedicated to community reinvestment,*  
1543 *create small and local businesses, strengthen the Commonwealth's vital agriculture sector, end the racially*  
1544 *disparate impacts of prohibition, and protect the health and safety of all citizens of the Commonwealth. This*  
1545 *subtitle is further intended to establish a competitive, sustainable, and decentralized market structure built*  
1546 *for long-term success, prioritizing the creation of durable, independent businesses over the maximization of*  
1547 *short-term tax revenue.*

1548     B. Further, the General Assembly determines that the creation of an authority for this purpose is in the  
1549 public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and  
1550 prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an  
1551 independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial  
1552 branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's  
1553 exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential  
1554 governmental function and a matter of public necessity for which public moneys may be spent.

1555     B. C. The Board of Directors of the Authority is vested with control of the possession, sale, transportation,  
1556 distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the Commonwealth, with  
1557 plenary power to prescribe and enforce regulations and conditions under which ~~retail~~ marijuana and ~~retail~~  
1558 marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt,  
1559 incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and  
1560 prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in  
1561 all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health,  
1562 welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of,  
1563 or be distributable to, any private individual, except that reasonable compensation may be paid for services  
1564 rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are  
1565 in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any  
1566 of the corporate assets on dissolution of the Authority.

1567     **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**

**1568 compensation and expenses; duties.**

**1569** A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory  
**1570** council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues,  
**1571** trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding  
**1572** health warnings; ~~retail~~; marijuana and ~~retail~~ marijuana products safety and product composition; and public  
**1573** health awareness, programming, and related resource needs.

**1574** B. The Advisory Council shall have a total membership of 21 members that shall consist of 14  
**1575** nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council  
**1576** shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of  
**1577** the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by  
**1578** the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for  
**1579** Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy  
**1580** of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom  
**1581** shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the  
**1582** House of Delegates, one of whom shall be a representative from a community services board, one of whom  
**1583** shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one  
**1584** of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of  
**1585** whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with  
**1586** experience in veterans health care, and one of whom shall be a person with a social or health equity  
**1587** background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one  
**1588** of whom shall be a representative of a local health district, one of whom shall be a person who is part of the  
**1589** cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of  
**1590** whom shall be a registered medical cannabis patient.

**1591** The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of  
**1592** Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services,  
**1593** the Director of the Department of Health Professions, the Director of the Department of Forensic Science,  
**1594** and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex  
**1595** officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with  
**1596** their terms of office.

1597 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four  
1598 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.  
1599 Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

1600 ~~The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.~~  
1601 The Advisory Council shall select a ~~vice-chairman~~ chair and vice-chair from among its membership. A  
1602 majority of the members shall constitute a quorum *unless the Advisory Council adopts a policy by the*  
1603 *affirmative vote of a majority of the Advisory Council members that allows for a lesser number of members to*  
1604 *constitute a quorum, which shall be no less than nine members.* The Advisory Council shall meet at least two  
1605 times each year and shall meet at the call of the ~~chairman~~ or chair, whenever the majority of the members so  
1606 request, *or upon the Board's submission of regulations to the Advisory Council for approval.*

1607 The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,  
1608 and state agency representatives.

1609 C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for  
1610 all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813  
1611 and 2.2-2825.

1612 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to  
1613 fulfill its purpose as described in subsection A:

1614 1. To review multi-agency efforts to support collaboration and a unified approach on public health  
1615 responses related to marijuana and marijuana legalization in the Commonwealth and to develop  
1616 recommendations as necessary.

1617 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the  
1618 Commonwealth and the science and medical information relevant to the potential health risks associated with  
1619 such drug use, and make appropriate recommendations to the Department of Health and the Board.

1620 3. ~~Submit~~ *To review and approve Board regulations related to public health pursuant to subsection F of*  
1621 *§ 4.1-606. The Advisory Council shall approve or deny such regulations within 30 calendar days of the*  
1622 *Board's submission of the regulations to the Advisory Council. If the Advisory Council fails to approve or*  
1623 *deny a regulation within 30 calendar days, the Advisory Council shall request a 30-day extension to review*  
1624 *the regulations from the Board or provide a written explanation to the Board on why the Advisory Council*  
1625 *failed to approve or deny the regulation within calendar days. If the Advisory Council fails to approve or*  
1626 *deny a regulation within 30 calendar days and does not request an extension, the Board may adopt such*

1627 *regulation without approval by the Advisory Council.*

1628 4. To submit an annual report to the Governor and the General Assembly for publication as a report  
1629 document as provided in the procedures of the Division of Legislative Automated Systems for the processing  
1630 of legislative documents and reports. The ~~chairman~~ chair shall submit to the Governor and the General  
1631 Assembly an annual executive summary of the interim activity and work of the Advisory Council no later  
1632 than the first day of each regular session of the General Assembly. The executive summary shall be submitted  
1633 as a report document as provided in the procedures of the Division of Legislative Automated Systems for the  
1634 processing of legislative documents and reports and shall be posted on the General Assembly's website.

1635 **§ 4.1-604. Powers and duties of the Board.**

1636 The Board shall have the following powers and duties:

1637 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and  
1638 § 4.1-606;

1639 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

1640 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized  
1641 pursuant to this subtitle;

1642 4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be  
1643 kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

1644 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

1645 6. Establish standards and implement an online course for employees of retail marijuana stores that trains  
1646 employees on how to educate consumers on the potential risks of marijuana use;

1647 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar  
1648 document regarding the potential risks of marijuana use to be prominently displayed and made available to  
1649 consumers;

1650 8. Establish a position for a Cannabis ~~Social Equity~~ *Impact Business* Liaison who shall lead the Cannabis  
1651 *Impact Business* ~~Equity and Diversity~~ Support Team and liaise with the Director of Diversity, Equity, and  
1652 Inclusion on matters related to ~~diversity, equity, and inclusion standards~~ *impact licensee participation* in the  
1653 marijuana industry;

1654 9. Establish a Cannabis *Impact Business* ~~Equity and Diversity~~ Support Team, which shall (i) develop  
1655 requirements for the creation and submission of diversity, equity, and inclusion *plans and define impact*  
1656 *licensee business accelerator plans* ~~by persons who wish to possess a license in more than one license~~

category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, with the ability to coordinate with public institutions of higher education and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned impact businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement historically economically disadvantaged communities; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement historically economically disadvantaged communities as necessary;

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

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

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

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

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

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

16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be



1688 necessary and fix their compensation to be payable from funds made available to the Authority. ~~Legal~~ The  
1689 Board may employ or retain legal counsel of its choice to advise or represent the Authority in hearings,  
1690 controversies, or other matters involving the interests of the Authority; however, upon request by the Board,  
1691 the Attorney General shall provide legal services for the Authority ~~shall be provided by the Attorney General~~  
1692 in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

1693 17. Receive and accept from any federal or private agency, foundation, corporation, association, or person  
1694 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept  
1695 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or  
1696 from any other source aid or contributions of either money, property, or other things of value, to be held,  
1697 used, and applied only for the purposes for which such grants and contributions may be made. All federal  
1698 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and  
1699 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys  
1700 accepted under this section shall be expended by the Authority upon such terms and conditions as are  
1701 prescribed by the Commonwealth;

1702 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business  
1703 shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties  
1704 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any  
1705 officer or employee of the Authority. The Board shall remain responsible for the performance of any such  
1706 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by  
1707 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall  
1708 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the  
1709 Board of the responsibility to ensure faithful performance of the duties and tasks;

1710 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's  
1711 purposes or necessary or convenient to exercise its powers;

1712 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
1713 construction, based upon competitive principles;

1714 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title  
1715 2.2;

1716 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,

1717 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
1718 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,  
1719 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to  
1720 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time  
1721 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms  
1722 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or  
1723 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such  
1724 terms and conditions as may be determined by the Board; and occupy and improve any land or building  
1725 required for the purposes of this subtitle;

1726 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered  
1727 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and  
1728 processing plants;

1729 24. Appoint every agent and employee required for its operations, require any or all of them to give bonds  
1730 payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of  
1731 experts and professionals;

1732 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production  
1733 of records, memoranda, papers, and other documents before the Board or any agent of the Board, and  
1734 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the  
1735 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and  
1736 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may  
1737 enter into consent agreements and may request and accept from any applicant, licensee, or permittee a  
1738 consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii)  
1739 disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding  
1740 whether the terms of the consent agreement are confidential and (b) may include an admission or a finding of  
1741 a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject  
1742 to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be  
1743 considered by the Board in future disciplinary proceedings;

1744 26. Make a reasonable charge for preparing and furnishing statistical information and compilations to  
1745 persons other than (i) officials, including court and police officials, of the Commonwealth and of its  
1746 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal

1747 interest in obtaining the information requested if such information is not to be used for commercial or trade  
1748 purposes;

1749 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for  
1750 violations of this subtitle and Board regulations;

1751 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive  
1752 Officer as the Board deems appropriate;

1753 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement  
1754 activities undertaken to enforce the provisions of this subtitle;

1755 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with  
1756 applications for such permits;

1757 31. Develop and make available on its website guidance documents regarding compliance and safe  
1758 practices for persons who cultivate marijuana at home for personal use, which shall include information  
1759 regarding cultivation practices that promote personal and public safety, including child protection, and  
1760 discourage practices that create a nuisance;

1761 32. Develop and make available on its website a resource that provides information regarding (i)  
1762 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana  
1763 consumption, including inability to operate a motor vehicle and other types of transportation and equipment;  
1764 and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment  
1765 opportunities. The Board shall require that the web address for such resource be included on the label of all  
1766 ~~retail~~ marijuana and ~~retail~~ marijuana product as provided in § ~~4.1-1402~~ 4.1-1405; and

1767 33. *Access during business hours any facility governed by this subtitle and any business that offers for*  
1768 *sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised*  
1769 *or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing samples to*  
1770 *identify potential violations of this subtitle;*

1771 34. *Conduct training that is open to the public and provide educational resources to the public on the*  
1772 *application process for licenses;*

1773 35. *Develop and provide consumer education that (i) highlights the ways purchasing marijuana and*  
1774 *marijuana products from or cultivated and processed by licensees supports farmers, small business, and*  
1775 *community reinvestment; (ii) educates consumers on how to recognize licensed retail marijuana stores; and*  
1776 *(iii) informs consumers about responsible marijuana consumption and health risks and other dangers*

1777 associated with marijuana consumption.

1778 36. Issue a quarterly report that contains information regarding (i) license fees waived or reduced  
1779 pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of  
1780 § 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under  
1781 the influence, underage consumption and youth awareness, and health risks; (iv) community engagement  
1782 initiatives; (v) sales and tax revenue; (vi) programs funded by marijuana tax revenue; (vii) efforts made  
1783 pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken;

1784 37. Maintain a public registry available online of ownership information for all licensees;

1785 38. Develop policies and procedures generally applicable to the audit of ownership and financial  
1786 relationships across all licenses on a schedule established by the Board. The audits shall be conducted by an  
1787 independent certified public accountant and the costs of such audits shall be borne by the licensee;

1788 39. Beginning on July 1, 2028, and each July 1 thereafter, issue an annual report on the performance and  
1789 health of the marijuana retail market in the Commonwealth, including information related to: (i) sales and  
1790 tax revenue, including information on sales and tax revenue broken down by marijuana and marijuana  
1791 product category; (ii) the distribution of tax revenue; (iii) the total number of licenses issued and the number  
1792 of licensees actively operating in the Commonwealth; (iv) ownership diversity; (v) the number of jobs created  
1793 in the marijuana industry, including information on the number of people employed by specific license type;  
1794 (vi) average wholesale and retail prices of different types of marijuana and marijuana products; (vii) licenses  
1795 issued to or renewed for persons identified in subdivision B 13 of § 4.1-606; (viii) an anonymized summary of  
1796 the compliance findings from any audit of ownership and financial relationships across all licenses  
1797 conducted pursuant to the policies and procedures of subdivision 38; (ix) whether licensees with substantial  
1798 market share of any category of licensure have an impact on the goals of (a) inclusion of microbusiness and  
1799 impact licensees in the market, (b) maintaining adequate supplies of marijuana, and (c) prevention of  
1800 dominant marketplace participation in the marijuana industry; (x) the potential expansion or contraction of  
1801 the marijuana market in the Commonwealth, which may include information related to any increase in retail  
1802 marijuana sales and activity in the illicit market; (xi) information on the viability of marijuana establishments  
1803 in the Commonwealth; (xii) the feasibility of requiring pharmaceutical processors and cannabis dispensing  
1804 facilities issued a permit by the Board pursuant to the provisions of Chapter 16 (§ 4.1-1600 et seq.) to offer  
1805 for sale a certain amount or percentage of marijuana and marijuana products cultivated or processed by  
1806 microbusinesses and impact licensees, including a proposed timeline for when such requirement may go into  
1807 effect; and (xiii) any recommendations, including recommendations for statutory or regulatory changes, to

1808 *strengthen the Commonwealth's marijuana retail market;*

1809     40. *Investigate the ownership and control interests of all licensees and approve or deny ownership,*  
1810 *financing, management, and brand-licensing agreements or contracts and issue divestiture orders as deemed*  
1811 *appropriate to ensure compliance with § 4.1-807;*

1812     41. *Coordinate with the Department of Criminal Justice Services to ensure the exchange of any*  
1813 *information necessary to comply with the reporting requirements of the Community Policing Reporting*  
1814 *Database established pursuant to § 52-30.3; and*

1815     42. Do all acts necessary or advisable to carry out the purposes of this subtitle.

1816     **§ 4.1-606. Regulations of the Board.**

1817     A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general  
1818 laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent  
1819 the illegal cultivation, ~~manufacture~~ *processing, transportation, distribution, sale, and testing of marijuana and*  
1820 *marijuana products. The Board may amend or repeal such regulations. ~~Such~~ Except as otherwise provided by*  
1821 *law, such* regulations shall be promulgated, amended, or repealed in accordance with the Administrative  
1822 Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

1823     B. The Board shall promulgate regulations that:

1824     1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including  
1825 security requirements to include lighting, physical security, and alarm requirements, provided that such  
1826 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

1827     2. Establish requirements for (i) securely transporting marijuana between marijuana establishments *and*  
1828 *(ii) securely delivering marijuana or marijuana products from retail marijuana stores or microbusinesses*  
1829 *only in person to consumers, which shall include requirements for age verification, delivery radius, and*  
1830 *recordkeeping;*

1831     3. Establish sanitary standards for ~~retail~~ marijuana product preparation;

1832     4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to Chapter 14  
1833 (§ 4.1-1400 et seq.);

1834     5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a  
1835 way that, when possible, prevents disparate impacts on historically *economically* disadvantaged communities;

1836     6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and ~~retail~~  
1837 *marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the*  
1838 *provisions of this subtitle;*

1839 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not exceed  
1840 (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an equivalent amount  
1841 for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible marijuana products and where  
1842 practicable an equivalent amount for other marijuana products. Such regulations may include other product  
1843 and dispensing limitations on tetrahydrocannabinol;

1844 8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

1845 9. Provide alternative methods for licensees to maintain and store business records that are subject to  
1846 Board inspection, including methods for Board-approved electronic and offsite storage;

1847 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores  
1848 in the community and (ii) metrics that have similarly shown an association with negative community-level  
1849 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the  
1850 Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

1851 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer  
1852 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the  
1853 address on record with the Board by certified mail, return receipt requested, and by regular mail;

1854 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to  
1855 subsection C of § ~~4.1-1002~~ 4.1-1003;

1856 13. Establish ~~criteria~~ *a process* by which to ~~evaluate social equity~~ *identify impact* license applicants,  
1857 which shall be an applicant ~~who has lived or been domiciled for at least 12 months in the Commonwealth and~~  
1858 ~~is either (i) an applicant with that has at least 66 percent ownership and direct control by a person or persons~~  
1859 ~~who meet the criteria in clause (iii) and one more of the following seven criteria: (i) have been convicted of~~  
1860 ~~or adjudicated delinquent for any misdemeanor or felony violation of § 18.2-248.1, former § 18.2-250.1, or~~  
1861 ~~subsection A of § 18.2-265.3 as it relates to marijuana or any substantially similar offense under the laws of~~  
1862 ~~another jurisdiction; (ii) an applicant with at least 66 percent ownership by a person or persons who is are the~~  
1863 ~~parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any~~  
1864 ~~misdemeanor or felony violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it~~  
1865 ~~relates to marijuana or any substantially similar offense under the laws of another jurisdiction; (iii) an~~  
1866 ~~applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the~~  
1867 ~~past five years (a) between the years 2011 and 2025 in a jurisdiction that is determined by the Board, after~~  
1868 ~~utilizing census tract data made available by the United States Census Bureau, is determined to have been~~  
1869 ~~disproportionately policed for marijuana crimes or (b) for at least three of the past five years in a historically~~

1870 *economically disadvantaged community; (iv) an applicant with at least 66 percent ownership by a person or*  
1871 *persons who have resided for at least three of the last five years in a jurisdiction determined by the Board*  
1872 *after utilizing census tract data made available by the United States Census Bureau to be economically*  
1873 *distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from*  
1874 *a historically black have attended for at least five years a public elementary or secondary school located in a*  
1875 *historically economically disadvantaged community; (v) have received a Federal Pell Grant or attended for*  
1876 *at least two years a college or university located in the Commonwealth at which at least 30 percent of the*  
1877 *students, on average, are eligible for a Federal Pell Grant; (vi) are veterans of the Armed Forces of the*  
1878 *United States; or (vii) have qualified for financial assistance or relief from the U.S. Department of*  
1879 *Agriculture as a distressed farmer in the last five years;*

1880 14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish  
1881 standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana  
1882 crimes and (ii) which jurisdictions are economically distressed;

1883 ~~15. Establish~~ For impact license applicants that meet the criteria in clause (iii) of subdivision 13 and one  
1884 other criteria set forth in subdivision 13, establish standards and requirements for (i) ~~any~~ a preference in the  
1885 licensing process for qualified social equity applicants; (ii) what percentage of application or license fees are  
1886 waived for a qualified social equity applicant, and to promote participation by impact licensees with an  
1887 inability to pay standard application and license fees; (iii) a low-interest business loan program for qualified  
1888 social equity applicants; (iv) a waiver of any requirements to show proof of funds or current possession and  
1889 control of the proposed licensed premises at the time of application; and (v) to the extent practicable, the  
1890 proportional distribution of licenses among the applicants set forth in clauses (i) through (vii) of subdivision  
1891 13. If at any time the Board determines that an impact license was obtained on the basis of a fraudulent  
1892 financial transaction or predatory operating agreement or if a prohibited assignment, sale, or transfer of an  
1893 impact license occurs in violation of subsection C of § 4.1-702, the Board shall immediately begin revocation  
1894 proceedings pursuant to § 4.1-903 and require the original impact licensee and any other true parties of  
1895 interest to repay to the Commonwealth the full value of any and all application or licensing fees that were  
1896 waived;

1897 ~~16. Establish~~ 15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal  
1898 cultivation of marijuana that promote personal and public safety, including child protection, and discourage  
1899 personal cultivation practices that create a nuisance, including a nuisance caused by odor;

1900 ~~17. Establish~~ 16. Establish reasonable time, place, and manner restrictions on outdoor advertising of ~~retail~~ marijuana

1901 or ~~retail~~ marijuana products, not inconsistent with the provisions of this chapter, so that such advertising  
1902 displaces the illicit market and notifies the public of the location of marijuana establishments. Such  
1903 regulations shall be promulgated in accordance with § ~~4.1-1404~~ 4.1-1402;

1904 ~~18.~~ 17. Establish restrictions on the number of licenses that a person may be granted to operate a  
1905 marijuana establishment in single locality or region; and

1906 ~~19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been~~  
1907 ~~granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all~~  
1908 ~~licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit~~  
1909 ~~the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp~~  
1910 ~~processor that such processor may offer for sale in its retail marijuana stores~~

1911 18. Allow impact licensees and microbusinesses to (i) enter into cooperative agreements; (ii) lease space  
1912 and equipment and cultivate, process, and sell marijuana and marijuana products on the premises of another  
1913 licensee; and (iii) process marijuana or marijuana products out of a shared processing space;

1914 19. Establish an approval process for the Board to approve or deny ownership, financing, management,  
1915 and brand-licensing agreements to ensure compliance with § 4.1-807 and establish objective criteria for  
1916 determining whether a financial arrangement between a licensee and another party constitutes undue  
1917 influence, including the consideration of factors such as price-setting authority, shelf-space control,  
1918 financing dependency, or shared personnel; and

1919 20. Establish procedures governing ownership disclosure, prior written approval of the Board for the  
1920 assignment, sale, or transfer of any license or any change in ownership or control and background  
1921 investigations of transferees. Such regulations shall (i) require that ownership interests be traced through all  
1922 intermediary entities to the ultimate beneficial owners and (ii) include provisions specifying that a change of  
1923 control occurs upon the (a) acquisition of 25 percent or more of equity or voting power, (b) execution of any  
1924 instrument conferring appointment or removal rights over managers, or (c) cumulative transfers totaling 25  
1925 percent or more within any 24-month period.

1926 C. The Board may promulgate regulations that:

1927 1. ~~Limit~~ Set the number of licenses issued by type or class to operate a marijuana establishment in order to  
1928 ensure that there is a sufficient supply of marijuana to meet demand, provide market stability, avoid market  
1929 dominance, ensure a competitive market that considers small business opportunities and concerns, and limit  
1930 the sale of unregulated marijuana; however, the number of licenses issued before January 1, 2028, shall not  
1931 exceed the following limits:



1932 a. Retail marijuana stores, ~~400~~ 350; and

1933 b. ~~Marijuana wholesalers~~, 25;

1934 c. ~~Marijuana manufacturing facilities~~, 60; and

1935 d. ~~Marijuana cultivation facilities~~, ~~450~~ Tier V marijuana cultivation facilities, 5.

1936 In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any  
1937 license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a  
1938 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or  
1939 (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services  
1940 pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

1941 *Beginning January 1, 2028, the Board shall determine the number of retail marijuana store and tier V*  
1942 *marijuana cultivation facility licenses that the Authority will issue consistent with the goals identified in this*  
1943 *subsection. If the Board makes an additional number of those licenses available, the number of licenses*  
1944 *available to impact licensee applicants shall be equal to or greater than the number of licenses available to*  
1945 *all other applicants.*

1946 *The Board may issue as many licenses as it deems necessary for any other license type not specified in*  
1947 *this subdivision. If the Board does limit the number of licenses available for any other license type not*  
1948 *specified in this subdivision, the number of licenses available to impact licensee applicants shall be equal to*  
1949 *or greater than the number of licenses available to all other applicants.*

1950 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ ~~4.1-1003~~ and §  
1951 4.1-1004, including method of filing a return, information required on a return, and form of payment.

1952 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed ~~1,500~~ 2,500  
1953 square feet of retail floor space.

1954 4. ~~Allow certain persons to be granted or have interest in a license in more than one of the following~~  
1955 ~~license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana~~  
1956 ~~wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical~~  
1957 ~~integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to~~  
1958 ~~participate in the market. Ensure that marijuana establishment licenses are, as possible and practicable,~~  
1959 ~~issued evenly among all areas of the Commonwealth; and~~

1960 5. Establish additional market-concentration thresholds, including regional or statewide market-share  
1961 and Herfindahl-Hirschman Index (HHI) benchmarks and policies and procedures for denying or  
1962 conditioning the issuance of licenses or approval of transfers of licenses that would create undue market

1963 *concentration.*

1964 D. Board regulations shall be uniform in their application, except those relating to hours of sale for  
1965 licensees.

1966 E. Courts shall take judicial notice of Board regulations.

1967 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any  
1968 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7,  
1969 10, or ~~16~~ 15, and, *except as otherwise provided in § 4.1-603*, shall not promulgate any such regulation that  
1970 has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

1971 G. ~~With regard to regulations governing licensees that have been issued a permit by the Board of~~  
1972 ~~Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2~~  
1973 ~~(§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such~~  
1974 ~~regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health,~~  
1975 ~~safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to~~  
1976 ~~deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical~~  
1977 ~~processors and cannabis dispensing facilities that have been found to be in compliance with regulations~~  
1978 ~~promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations~~  
1979 ~~promulgated pursuant to this subtitle.~~

1980 H. The Board's power to regulate shall be broadly construed.

1981 **§ 4.1-607. Board membership; terms; compensation.**

1982 A. The Authority shall be governed by a Board of Directors, which shall consist of ~~five~~ *seven* citizens at  
1983 *large as follows: five members* appointed by the Governor and confirmed by the affirmative vote of a majority  
1984 of those voting in each house of the General Assembly *and two members appointed by the Joint Rules*  
1985 *Committee and confirmed by the affirmative vote of a majority of those voting in each house of the General*  
1986 *Assembly.* Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three  
1987 years next preceding his appointment, and his continued residency shall be a condition of his tenure in office;  
1988 (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a  
1989 minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or  
1990 control of a business or legal affairs. *Members shall be appointed in a manner that ensures expertise among*  
1991 *the Board members in health, law, agriculture, finance, and law enforcement.* Appointees shall reflect the  
1992 racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a  
1993 background check in accordance with § 4.1-609.

1994 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members  
1995 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired  
1996 term. No member ~~appointed by the Governor~~ shall be eligible to serve more than two consecutive terms;  
1997 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the  
1998 Board may be removed from office by the Governor for cause, including the improper use of its police  
1999 powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of  
2000 interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the  
2001 General Assembly, or refusal to carry out a lawful directive of the Governor.

2002 C. The Governor shall appoint the ~~chairman~~ *chair* and ~~vice-chairman~~ *vice-chair* of the Board from among  
2003 the membership of the Board. The Board may elect other subordinate officers, who need not be members of  
2004 the Board. The Board may also form committees and advisory councils, which may include representatives  
2005 who are not members of the Board, to undertake more extensive study and discussion of the issues before the  
2006 Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and  
2007 no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties  
2008 of the Authority.

2009 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be  
2010 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written  
2011 request of a majority of the Board members.

2012 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of  
2013 expenses for the performance of their official duties as set forth in the general appropriation act for members  
2014 of the House of Delegates when the General Assembly is not in session, except that the ~~chairman~~ *chair* of the  
2015 Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance  
2016 of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when  
2017 the General Assembly is not in session.

2018 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall  
2019 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the  
2020 Authority.

2021 **§ 4.1-611. Seed-to-sale tracking system.**

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

stage until the ~~retail~~ marijuana or ~~retail~~ marijuana product is sold to a customer at a retail marijuana store.

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

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

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

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

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

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

D. All local tax revenues collected under *subsection B of § 4.1-1004* shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the

2055 Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited  
2056 to the account of the locality in which they were collected. If revenues were collected from a marijuana  
2057 establishment located in more than one locality by reason of the boundary line or lines passing through the  
2058 marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall  
2059 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality  
2060 to which tax revenues are attributable.

2061 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper  
2062 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged  
2063 to the account of each such locality under the special fund created by this section. If errors are made in any  
2064 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to  
2065 some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

2066 **§ 4.1-621. Certain information not to be made public.**

2067 Neither the Board nor its employees shall divulge any information regarding (i) financial reports or  
2068 records required pursuant to this subtitle; (ii) the purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
2069 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees; (iii) taxes collected from,  
2070 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system  
2071 maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to  
2072 taxes collected pursuant to this subtitle and to purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
2073 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees.

2074 Nothing contained in this section shall prohibit the use or release of such information or documents by the  
2075 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,  
2076 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall  
2077 this section prohibit the Board or its employees from compiling and disseminating to any member of the  
2078 public aggregate statistical information pertaining to (a) tax collection, as long as such information does not  
2079 reveal or disclose tax collection from any identified licensee; (b) the total amount of ~~retail~~ marijuana or ~~retail~~  
2080 marijuana products sales in the Commonwealth by marijuana ~~wholesaler~~ licensees collectively; or (c) the  
2081 total amount of purchases or sales submitted by licensees, provided that such information does not identify  
2082 the licensee.

2083 **§ 4.1-629. Local ordinances or resolutions regulating marijuana or marijuana products.**

2084 *A. No county, city, or town shall, except as provided in § 4.1-630, adopt any ordinance or resolution that*  
2085 *regulates or prohibits the cultivation, processing, possession, sale, distribution, handling, transportation,*

2086 consumption, use, advertising, or dispensing of marijuana or marijuana products in the Commonwealth.

2087 B. However, the governing body of any county, city, or town may adopt an ordinance that prohibits in its  
2088 local public parks, playgrounds, public streets, or any sidewalk adjoining any public street the acts described  
2089 in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty for violation thereof.

2090 C. The governing body of any county, city, or town may adopt an ordinance that decreases the minimum  
2091 distance requirement (i) between retail marijuana stores and microbusinesses as specified in § 4.1-810 or (ii)  
2092 between a retail marijuana store or microbusiness and any place of religious worship; hospital; public,  
2093 private, or parochial school or institution of higher education; public or private playground or other similar  
2094 recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local  
2095 government-operated facility as specified in § 4.1-810.

2096 D. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and  
2097 enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and  
2098 land use requirements and business license requirements.

2099 E. Except as provided in this section, all local acts, including charter provisions and ordinances of  
2100 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent  
2101 of such inconsistency.

2102 **§ 4.1-630. Local ordinances regulating time of sale of marijuana and marijuana products.**

2103 The governing body of each county may adopt ordinances effective in that portion of such county not  
2104 embraced within the corporate limits of any incorporated town, and the governing body of each city and town  
2105 may adopt ordinances effective in such city or town, fixing hours during which marijuana and marijuana  
2106 products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any  
2107 such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of  
2108 appeal pursuant to § 16.1-106.

2109 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing  
2110 body adopting it and transmitted to the Board.

2111 On and after the effective date of any ordinance adopted pursuant to this section, no marijuana store shall  
2112 sell marijuana or marijuana products during the hours limited by the ordinance.

2113 CHAPTER 7.

2114 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

2115 **§ 4.1-700. Exemptions from licensure.**

2116 The licensure requirements of this subtitle shall not apply to (i) a handler, grower, or processor of

2117 *industrial hemp that is registered with the Commissioner of Agriculture and Consumer Services pursuant to*  
2118 *Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (ii)*  
2119 *a person that has been issued a regulated hemp product retail facility registration and is acting in*  
2120 *accordance with the provisions of Title 3.2; (iii) a manufacturer of an edible hemp product operating in*  
2121 *accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (iv) a person who cultivates*  
2122 *marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a)*  
2123 *prevent any person described in clauses (i) through (iii) from obtaining a license pursuant to this subtitle,*  
2124 *provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp*  
2125 *products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et*  
2126 *seq.) of Title 3.2; or (c) prevent a cultivation, processing, transporter, microbusiness, or retail licensee from*  
2127 *operating on the licensed premises of an industrial hemp processing facility in accordance with Chapter 41.1*  
2128 *(§ 3.2-4112 et seq.) of Title 3.2.*

2129     ***§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.***

2130     *The privilege of any licensee to cultivate, process, transport, deliver, sell, or test marijuana or marijuana*  
2131 *products shall extend to such licensee and to all agents or employees of such licensee for the purpose of*  
2132 *operating under such license. The licensee may be held liable for any violation of this subtitle or any Board*  
2133 *regulation committed by such agents or employees in connection with their employment.*

2134     ***§ 4.1-702. Separate license for each place of business; transfer or amendment or license; mandatory***  
2135 ***holding period for impact licenses; posting; expiration; civil penalties.***

2136     *A. Each license granted by the Board shall designate the place where the business of the licensee will be*  
2137 *carried on. A separate license shall be required for each separate place of business.*

2138     *B. No license shall be transferable from one location to another unless such transfer is conducted in*  
2139 *accordance with Board regulations. No license shall be assigned, sold, or transferred, nor shall ownership or*  
2140 *control of a license be changed, unless the licensee has received prior written approval by the Board and*  
2141 *such assignment, sale, transfer, or change is conducted in accordance with Board regulations. Any such*  
2142 *change made without approval of the Board is void and shall constitute grounds for immediate suspension or*  
2143 *revocation of all affected licenses.*

2144     *C. No impact licensee, nor any person holding a direct or indirect beneficial interest therein, shall sell,*  
2145 *assign, or transfer a controlling interest of more than 49 percent of the license to any person or entity for a*  
2146 *period of five years from the date the license is issued. The Board may, by regulation, provide for an*  
2147 *exception to this mandatory holding period for transfers made as part of an estate plan to a family member or*

2148 *into a trust for the benefit of the licensee's immediate family.*

2149 *D. The Board may permit a licensee to amend the classification of an existing license without complying*  
2150 *with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce*  
2151 *materially the privileges of an existing license.*

2152 *E. Each license shall be posted in a location conspicuous to the public at the place where the licensee*  
2153 *carries on the business for which the license is granted.*

2154 *F. The privileges conferred by any license granted by the Board shall continue until the last day of the*  
2155 *twelfth month next ensuing or the last day of the designated month and year of expiration, except the license*  
2156 *may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or*  
2157 *by operation of law, voluntary surrender, or order of the Board.*

2158 *The Board may grant licenses for one year based on the fees set by the Board pursuant to § 4.1-1002.*

2159 ***§ 4.1-703. Records of licensees; inspection of records and places of business.***

2160 *A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in*  
2161 *accordance with Board regulations of all marijuana and marijuana products it cultivated, purchased,*  
2162 *processed, sold, developed, researched, tested, or shipped.*

2163 *B. Every licensed retail marijuana store and microbusiness shall keep complete, accurate, and separate*  
2164 *records in accordance with Board regulations of all purchases of marijuana products, the prices charged*  
2165 *such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed*  
2166 *retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by*  
2167 *Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of*  
2168 *marijuana products sold and the total price charged by it therefor. Except as otherwise provided in*  
2169 *subsections C and D, such account need not give the names or addresses of the purchasers thereof, except as*  
2170 *may be required by Board regulation.*

2171 *Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores and*  
2172 *microbusinesses may be stored off-site, provided that such records are readily retrievable and available for*  
2173 *electronic inspection by the Board or its agents at the licensed premises. However, in the case that such*  
2174 *electronic records are not readily available for electronic inspection on the licensed premises, the licensee*  
2175 *may obtain Board approval, for good cause shown, to permit the licensee to provide the records to an agent*  
2176 *of the Board within three business days or less, as determined by the Board, after a request is made to inspect*  
2177 *the records.*

2178 *C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees*



2179 or persons who submit marijuana or marijuana products to the marijuana testing facility.

2180 *D. The Board and its special agents shall be allowed free access during reasonable hours to every place*  
2181 *in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting*  
2182 *such place and all records, invoices, and accounts therein.*

2183 *For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable*  
2184 *hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the*  
2185 *public substantially during the same hours, "reasonable hours" means the business hours when the licensee*  
2186 *is open to the public. At any other time of day, if the retail marijuana store licensee's records are not*  
2187 *available for inspection, the licensee shall provide the records to an agent of the Board within 24 hours after*  
2188 *a request is made to inspect the records.*

2189 **CHAPTER 8.**

2190 **ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.**

2191 **§ 4.1-800. Marijuana cultivation facility license.**

2192 *A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize*  
2193 *the licensee to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants*  
2194 *and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature*  
2195 *marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana,*  
2196 *immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and*  
2197 *sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer*  
2198 *possession of and sell marijuana to marijuana processing facilities; and to transport marijuana, immature*  
2199 *marijuana plants, and marijuana seeds from the marijuana cultivation facility's licensed premises to another*  
2200 *licensed marijuana establishment:*

2201 *1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2202 *indoors or outdoors with a canopy that does not exceed 5,000 square feet.*

2203 *2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2204 *indoors or outdoors with a canopy that does not exceed 10,000 square feet.*

2205 *3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2206 *indoors with a canopy that does not exceed 15,000 square feet.*

2207 *4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2208 *indoors with a canopy that does not exceed 25,000 square feet.*

2209 *5. Tier V marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*

2210 indoors with a canopy that does not exceed 35,000 square feet.

2211 In consideration of (i) market demand, (ii) utilization rates, (iii) sales data, (iv) product transfers, (v)  
2212 inventory data, and (vi) the volume of license applications and issuances, the Board may (a) adjust the  
2213 canopy of marijuana cultivation facilities within the square footage parameters set forth in this subsection or  
2214 (b) increase the canopy of a marijuana cultivation facility beyond the square footage parameters set forth in  
2215 this subsection if the Board determines that such increase will assist or encourage participation by impact  
2216 licensees in the industry.

2217 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track  
2218 the marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant  
2219 or the marijuana produced by the marijuana plant is transported or transferred to a marijuana testing  
2220 facility, a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail  
2221 marijuana store or is disposed of or destroyed.

2222 C. The cultivation of marijuana by a marijuana cultivation facility licensee in a secure agricultural  
2223 greenhouse shall be considered indoor cultivation and shall be permitted, provided that the secure  
2224 agricultural greenhouse is surrounded by a privacy fence that is no less than eight feet tall and is subject to  
2225 monitored ingress and egress.

2226 D. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is  
2227 cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by  
2228 the Board.

2229 **§ 4.1-801. Marijuana processing facility license.**

2230 A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to  
2231 process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana  
2232 from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and  
2233 sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities; to  
2234 transfer possession of marijuana and marijuana products to marijuana transporters; and to transport  
2235 marijuana and marijuana products from the marijuana processing facility's licensed premises to another  
2236 licensed marijuana establishment.

2237 B. All areas within the licensed premises of a marijuana processing facility in which marijuana and  
2238 marijuana products are processed shall meet all sanitary standards specified in regulations adopted by the  
2239 Board. A marijuana processing facility that processes an edible marijuana product shall comply with the  
2240 requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

2241 *C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track*  
2242 *the marijuana it uses in its processing from the point the marijuana is delivered or transferred to the*  
2243 *marijuana processing facility by a marijuana transporter licensee to the point the marijuana or marijuana*  
2244 *products produced using the marijuana are delivered or transferred to another marijuana processing facility,*  
2245 *a retail marijuana store, a marijuana testing facility, or a marijuana transporter or are disposed of or*  
2246 *destroyed.*

2247 **§ 4.1-802. Retail marijuana store license.**

2248 *A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or*  
2249 *take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a*  
2250 *marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana*  
2251 *products, immature marijuana plants, or marijuana seeds from a marijuana transporter; to sell marijuana,*  
2252 *marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to consumers*  
2253 *on premises approved by the Board; to deliver marijuana, marijuana products, marijuana paraphernalia,*  
2254 *immature marijuana plants, or marijuana seeds only in person to consumers; to transfer possession of*  
2255 *marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to*  
2256 *marijuana delivery operators; and to transport marijuana, marijuana products, marijuana paraphernalia,*  
2257 *immature marijuana plants, and marijuana seeds from the retail marijuana store's licensed premises to*  
2258 *another retail marijuana store.*

2259 *B. Retail marijuana stores shall be operated in accordance with the following provisions:*

2260 *1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.*

2261 *2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature marijuana*  
2262 *plants, or marijuana seeds to consumers only (i) in a direct, face-to-face exchange; (ii) using a licensed*  
2263 *marijuana delivery operator; or (iii) by delivery in person to consumers at any residence, including a*  
2264 *temporary residence, or business; however, a retail marijuana store shall not deliver marijuana, marijuana*  
2265 *products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to (a) any military base,*  
2266 *child day center, school, or correctional facility; (b) the State Capitol; (c) hospital; (d) marine terminal*  
2267 *under the supervision of the Virginia Port Authority; or (e) any public gathering places, including sporting*  
2268 *events, festivals, fairs, races, concerts, and terminals of public transportation companies. A retail marijuana*  
2269 *store shall not be permitted to sell marijuana, marijuana products, marijuana paraphernalia, immature*  
2270 *marijuana plants, or marijuana seeds using:*

2271 *a. An automated dispensing or vending machine;*

2272 *b. A drive-through sales window; or*

2273 *c. An internet-based sales platform.*

2274 *3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of marijuana*  
2275 *or an equivalent amount of marijuana products as determined by regulation promulgated by the Board*  
2276 *during a single transaction to one person.*

2277 *4. A retail marijuana store shall not market marijuana, marijuana products, marijuana paraphernalia,*  
2278 *immature marijuana plants, or marijuana seeds through an internet-based sales platform operated by a third*  
2279 *party or fulfill any order referred by such internet-based sales platform operated by a third party.*

2280 *5. A retail marijuana store shall not:*

2281 *a. Give away any marijuana, marijuana products, immature marijuana plants, or marijuana seeds except*  
2282 *as otherwise permitted by this subtitle; or*

2283 *b. Sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to any person*  
2284 *when at the time of such sale he knows or has reason to believe that the person attempting to purchase the*  
2285 *marijuana, marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting*  
2286 *to purchase marijuana for someone younger than 21 years of age.*

2287 *6. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all*  
2288 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the*  
2289 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred*  
2290 *to the retail marijuana store to the point at which the marijuana, marijuana products, immature marijuana*  
2291 *plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility,*  
2292 *transferred to a marijuana delivery operator, or disposed of or destroyed.*

2293 *7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of*  
2294 *Title 3.2.*

2295 *C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of*  
2296 *a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a*  
2297 *means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a*  
2298 *place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of*  
2299 *§ 40.1-11.3.*

2300 *D. Each retail marijuana store licensee shall prominently display and make available for dissemination to*  
2301 *consumers Board-approved information regarding the potential risks of marijuana use.*

2302 *E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees*

2303 *educating them on how to discuss the potential risks of marijuana use with consumers.*

2304 *F. All areas within the licensed premises of a retail marijuana store in which marijuana, marijuana*  
2305 *products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary standards*  
2306 *specified in regulations adopted by the Board.*

2307 **§ 4.1-803. Microbusiness license.**

2308 *A. The Board may issue microbusiness licenses, which shall authorize the licensee to conduct any*  
2309 *activities authorized for marijuana cultivation facilities pursuant to § 4.1-800, marijuana processing*  
2310 *facilities pursuant to § 4.1-801, and retail marijuana stores pursuant to § 4.1-802, as determined by the*  
2311 *Board; however, (i) a microbusiness licensee shall process and sell only marijuana or marijuana products*  
2312 *cultivated or processed by a microbusiness licensee; (ii) a microbusiness license shall authorize the licensee*  
2313 *to cultivate marijuana indoors or outdoors with an indoor canopy that does not exceed 5,000 square feet and*  
2314 *an outdoor canopy that does not exceed 10,000 square feet, or such other comparable limits as the Board*  
2315 *may establish by regulation; and (iii) a microbusiness licensee shall not hold or control any other license and*  
2316 *may operate only one licensed premises.*

2317 *B. Unless otherwise provided by law or the Board, a microbusiness licensee shall be subject to the same*  
2318 *statutory requirements and regulations as marijuana cultivation facilities, marijuana processing facilities,*  
2319 *and retail marijuana stores, including requirements for (i) tracking all marijuana, marijuana products,*  
2320 *immature marijuana plants, or marijuana seeds in accordance with § 4.1-611 and (ii) ensuring all areas*  
2321 *within the licensed premises of the microbusiness meet all sanitary standards specified in regulations*  
2322 *adopted by the Board.*

2323 **§ 4.1-804. Marijuana transporter license.**

2324 *A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take*  
2325 *possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a*  
2326 *marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another marijuana*  
2327 *transporter; to transfer possession of marijuana, marijuana products, immature marijuana plants, and*  
2328 *marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail marijuana store, or*  
2329 *another marijuana transporter; and to transport marijuana, marijuana products, immature marijuana plants,*  
2330 *and marijuana seeds from one licensed establishment to another.*

2331 *B. All areas within the licensed premises of a marijuana transporter in which marijuana and marijuana*  
2332 *products are stored shall meet all sanitary standards specified in regulations adopted by the Board.*

2333 *C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the*

2334 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the*  
2335 *marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to*  
2336 *the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana*  
2337 *processor, marijuana transporter, retail marijuana store, or marijuana testing facility or are disposed of or*  
2338 *destroyed.*

2339     **§ 4.1-805. Marijuana delivery operator license.**

2340     *A. The Board may issue marijuana delivery operator licenses, which shall authorize the licensee to take*  
2341 *possession of marijuana or marijuana products from a retail marijuana store or microbusiness and deliver*  
2342 *such marijuana or marijuana products only in person to consumers at any residence, including a temporary*  
2343 *residence, or business; however, a delivery operator licensee shall not deliver marijuana or marijuana*  
2344 *products to (i) any military base, child day center, school, or correctional facility; (ii) the State Capitol; (iii)*  
2345 *hospital; (iv) marine terminal under the supervision of the Virginia Port Authority; or (v) any public*  
2346 *gathering places, including sporting events, festivals, fairs, races, concerts, and terminals of public*  
2347 *transportation companies.*

2348     *B. In accordance with the requirements of § 4.1-611, a marijuana delivery operator licensee shall track*  
2349 *the marijuana or marijuana products from the point at which the marijuana or marijuana products are*  
2350 *transferred to the marijuana delivery operator to the point at which the marijuana or marijuana products are*  
2351 *delivered or transferred to the consumer or are disposed of or destroyed.*

2352     **§ 4.1-806. Marijuana testing facility license.**

2353     *A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,*  
2354 *research, or test marijuana, marijuana products, and other substances.*

2355     *B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for (i)*  
2356 *that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana product for*  
2357 *personal use as authorized under § 4.1-1100.*

2358     *C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana*  
2359 *testing facility from developing, researching, or testing substances that are not marijuana or marijuana*  
2360 *products for that facility or for another person.*

2361     *D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and*  
2362 *maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for*  
2363 *Standardization by a third-party accrediting body.*

2364     *E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all*

2365 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the  
2366 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at  
2367 which the marijuana or marijuana products are disposed of or destroyed.

2368 F. A person that has an interest in a marijuana testing facility license shall not have any interest in a  
2369 licensed marijuana cultivation facility, licensed marijuana processing facility, licensed marijuana  
2370 transporter, licensed retail marijuana store, or licensed microbusiness.

2371 G. All areas within the licensed premises of a marijuana testing facility in which marijuana or marijuana  
2372 products are tested or stored shall meet all sanitary standards specified in regulations adopted by the Board.

2373 **§ 4.1-807. Multiple licenses awarded to one person; limitations.**

2374 A. As used in this section, "interest" means a direct or indirect equity ownership interest, a partial equity  
2375 ownership interest, or any other financial or economic interest representing at least 10 percent or more of  
2376 the ownership, voting power, or economic value of an entity, including being an investor, partner, member,  
2377 officer, or director or serving in any other management position.

2378 B. A person may possess or hold interest in one or any combination of the following licenses pursuant to  
2379 Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license,  
2380 tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, tier V marijuana  
2381 cultivation facility license, marijuana processing facility license, marijuana transporter license, marijuana  
2382 delivery operator license, or retail marijuana store license. Board regulations shall be drawn to ensure that  
2383 all licensees have an equal and meaningful opportunity to participate in the market. Moreover, except as  
2384 provided in subsection C, (i) no person shall be granted or hold interest in more than five total licenses, not  
2385 including marijuana transporter licenses, issued pursuant to this subtitle or more than one tier V marijuana  
2386 cultivation facility license; (ii) no person that has been granted or holds interest in a marijuana cultivation  
2387 facility license, marijuana processing facility license, marijuana transporter license, marijuana delivery  
2388 operator license, retail marijuana store license, or microbusiness license shall be issued or hold interest in a  
2389 marijuana testing facility license; and (iii) no person that has been granted or holds interest in a  
2390 microbusiness license shall be issued or hold interest in any other marijuana establishment.

2391 **§ 4.1-808. Temporary permits required in certain instances.**

2392 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured  
2393 creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has  
2394 become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana  
2395 establishment to the same extent as the license holder for a period not to exceed 60 days or for such longer

2396 *period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any*  
2397 *licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be*  
2398 *issued in advance, conditioned on the requirements in this subsection.*

2399 *B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any*  
2400 *cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary*  
2401 *permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of*  
2402 *three business days after the order of the revocation has been mailed to the permittee at either his residence*  
2403 *or the address given for the business in the permit application. No further notice shall be required.*

2404 ***§ 4.1-809. Licensee shall maintain possession of premises.***

2405 *As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of*  
2406 *the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental*  
2407 *agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If*  
2408 *the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.*

2409 ***§ 4.1-810. Conditions under which the Board shall or may refuse to grant licenses.***

2410 *A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting of the*  
2411 *license would be detrimental to the interest, morals, safety, or welfare of the public or would be inconsistent*  
2412 *with the provisions of this subtitle.*

2413 *B. The Board shall refuse to grant any license if it has reasonable cause to believe that:*

2414 *1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an*  
2415 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the*  
2416 *applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital*  
2417 *stock, or if the applicant is a limited liability company, any member-manager or any member owning 10*  
2418 *percent or more of the membership interest of the limited liability company:*

2419 *a. Is not 21 years of age or older;*

2420 *b. Has been convicted in any court of a felony, other than a conviction for a felony violation of*  
2421 *§ 18.2-248.1, or any crime or offense involving moral turpitude under the laws of any state or of the United*  
2422 *States within seven years of the date of the application or has not completed all terms of sentencing and*  
2423 *probation resulting from any such conviction;*

2424 *c. Knowingly employs or allows to volunteer someone younger than 21 years of age;*

2425 *d. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership*  
2426 *interests in the business that have not been disclosed;*



2427 *e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business*  
2428 *proposed to be licensed;*

2429 *f. Has misrepresented a material fact in applying to the Board for a license;*

2430 *g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or*  
2431 *governmental agency or authority, by making or filing any report, document, or tax return required by statute*  
2432 *or regulation that is fraudulent or contains a false representation of a material fact, or has willfully deceived*  
2433 *or attempted to deceive the Board, or any federal, state, or local government or governmental agency or*  
2434 *authority, by making or maintaining business records required by statute or regulation that are false or*  
2435 *fraudulent;*

2436 *h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his*  
2437 *application for a license is pending;*

2438 *i. Is a full-time or part-time employee of the Department of State Police or of a police department or*  
2439 *sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,*  
2440 *and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth;*

2441 *j. Has been sanctioned by the Board pursuant to regulations promulgated by the Board for a violation*  
2442 *pursuant to Chapter 16 (§ 4.1-1600 et seq.); or*

2443 *k. Is physically unable to carry on the business for which the application for a license is filed or has been*  
2444 *adjudicated incapacitated.*

2445 *2. The applicant is a member or employee of the Board or is a corporation or other business entity in*  
2446 *which a member or employee of the Board is a stockholder or has any other economic interest. Whenever any*  
2447 *other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such*  
2448 *a license or continuance thereof, he shall state on the application the official position he holds, and whenever*  
2449 *a corporation or other business entity in which any such official is a stockholder or has any other economic*  
2450 *interest applies for such a license, it shall state on the application the full economic interests of each such*  
2451 *official in such corporation or other business entity.*

2452 *3. The place to be occupied by the applicant:*

2453 *a. Does not conform to the requirements of the governing body of the county, city, or town in which such*  
2454 *place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements*  
2455 *established by the laws of the Commonwealth or by Board regulation;*

2456 *b. Is so located that granting a license and operation thereunder by the applicant would result in*  
2457 *violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local*

2458 *ordinances relating to peace and good order;*

2459 *c. When the applicant is applying for a retail marijuana store license or microbusiness license, is (i)*  
2460 *located within 1,000 feet of any place of religious worship; hospital; public, private, or parochial school or*  
2461 *institution of higher education; public or private playground or other similar recreational facility; child day*  
2462 *program; substance use disorder treatment facility; or federal, state, or local government-operated facility,*  
2463 *unless the locality has adopted an ordinance decreasing the minimum distance requirement between retail*  
2464 *marijuana stores and such facilities, programs, or institutions or (ii) so located with respect to any such*  
2465 *facilities, programs, or institutions that the operation of such place under such license will adversely affect or*  
2466 *interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;*

2467 *d. When the applicant is applying for a retail marijuana store license or microbusiness license, is so*  
2468 *located with respect to any residence or residential area that the operation of such place under such license*  
2469 *will adversely affect real property values or substantially interfere with the usual quietude and tranquility of*  
2470 *such residence or residential area;*

2471 *e. When the applicant is applying for a retail marijuana store license or microbusiness license, is located*  
2472 *within 1,000 feet of an existing retail marijuana store, unless the locality has adopted an ordinance*  
2473 *decreasing the distance requirement between retail marijuana stores;*

2474 *f. Is so constructed, arranged, or illuminated that law-enforcement officers and agents of the Board are*  
2475 *prevented from ready access to and reasonable observation of any room or area within which marijuana or*  
2476 *marijuana products are to be sold; or*

2477 *g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured, sold,*  
2478 *or used.*

2479 *Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or*  
2480 *premises until the final stage of the license approval process.*

2481 *4. The number of licenses existing in the locality is such that the granting of a license is detrimental to the*  
2482 *interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider (i) the*  
2483 *criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in*  
2484 *the community; (ii) the character of, population of, number of similar licenses in, and number of all licenses*  
2485 *existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) the effect that*  
2486 *a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this*  
2487 *subtitle; and (iv) the objections, if any, that may have been filed by a local governing body or local residents.*

2488 *5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political*

2489 subdivision thereof that warrants refusal by the Board to grant any license.

2490 6. The Board is not authorized under this subtitle to grant such license.

2491 **§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**

2492 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial  
2493 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
2494 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the  
2495 Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from  
2496 any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall  
2497 not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither  
2498 mandamus nor injunction shall lie in any such case.

2499 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store  
2500 license, provided that such:

2501 1. License for the applicant has been refused or revoked within a period of 12 months;

2502 2. License for any premises has been refused or revoked at that location within a period of 12 months; or

2503 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the  
2504 Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a  
2505 pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a  
2506 violation of this subtitle.

2507 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of  
2508 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the  
2509 Board may refuse a hearing on an application for a new license until after the date on which the suspension  
2510 period would have been executed had the license not been permitted to expire.

2511 CHAPTER 9.

2512 ADMINISTRATION OF LICENSES; DENIAL, SUSPENSION, AND REVOCATION.

2513 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

2514 A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

2515 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an  
2516 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
2517 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock,  
2518 or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or  
2519 more of the membership interest of the limited liability company:

- 2520 a. Has misrepresented a material fact in applying to the Board for such license;
- 2521 b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903,
- 2522 has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter
- 2523 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or
- 2524 refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with
- 2525 any of the conditions or restrictions of the license granted by the Board;
- 2526 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under
- 2527 the laws of any state or of the United States;
- 2528 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other
- 2529 persons have ownership interests in the business that have not been disclosed;
- 2530 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
- 2531 conducted under the license granted by the Board;
- 2532 f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed
- 2533 premises;
- 2534 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become
- 2535 a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of
- 2536 ill repute, or has allowed any form of illegal gambling, as defined in § 18.2-325, to take place upon such
- 2537 premises;
- 2538 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such
- 2539 licensed premises;
- 2540 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product;
- 2541 j. Is physically unable to carry on the business conducted under such license or has been adjudicated
- 2542 incapacitated;
- 2543 k. Has possessed any illegal gambling device upon the licensed premises;
- 2544 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly
- 2545 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled
- 2546 substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms
- 2547 are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the
- 2548 Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired
- 2549 to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug
- 2550 Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of

2551 *the licensed business that facilitates the commission of any of the offenses set forth herein;*

2552 *m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises*  
2553 *immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of*  
2554 *public property immediately adjacent to the licensed premises from becoming a place where patrons of the*  
2555 *establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1*  
2556 *(§ 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.),*  
2557 *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*  
2558 *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*  
2559 *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*  
2560 *violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to*  
2561 *the public safety;*

2562 *n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious*  
2563 *bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises*  
2564 *immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of*  
2565 *public property immediately adjacent to the licensed premises; or*

2566 *o. Has been sanctioned by the Board pursuant to regulations promulgated by the Board for a violation*  
2567 *pursuant to Chapter 16 (§ 4.1-1600 et seq.).*

2568 *2. The place occupied by the licensee:*

2569 *a. Does not conform to the requirements of the governing body of the county, city, or town in which such*  
2570 *establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar*  
2571 *requirements established by the laws of the Commonwealth or by Board regulations;*

2572 *b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or*

2573 *c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,*  
2574 *prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are*  
2575 *regularly used or distributed. The Board may consider the general reputation in the community of such*  
2576 *establishment in addition to any other competent evidence in making such determination.*

2577 *3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of*  
2578 *the United States by prices charged or otherwise.*

2579 *4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the*  
2580 *facts been known.*

2581 *5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties*

2582 *or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified*  
2583 *by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding*  
2584 *amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with*  
2585 *respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by*  
2586 *the same locality to settle the outstanding liability.*

2587 6. *The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its*  
2588 *agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed*  
2589 *premises in the Commonwealth.*

2590 7. *The Board finds that the licensee assigned, sold, or transferred a license or changed ownership or*  
2591 *control of the license without prior written approval of the Board as required pursuant to § 4.1-702.*

2592 8. *Any other cause authorized by this subtitle.*

2593 B. *The Board shall promulgate regulations regarding suspension and revocation standards and protocols.*

2594 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

2595 A. *Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative*  
2596 *Process Act or § 4.1-808 or 4.1-903, the Board may summarily suspend any license or permit if it has*  
2597 *reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence*  
2598 *of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed*  
2599 *premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent*  
2600 *to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that*  
2601 *summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.*

2602 B. *Prior to issuing an order of suspension pursuant to this section, agents of the Board shall conduct an*  
2603 *initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of*  
2604 *violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its*  
2605 *intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary*  
2606 *suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may*  
2607 *petition the Board for a restricted license pending the results of the formal investigation and proceedings for*  
2608 *disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have*  
2609 *discretion to impose appropriate restrictions based on the facts presented.*

2610 C. *Upon a determination to temporarily suspend a license, the Board shall immediately commence a*  
2611 *formal investigation. The formal investigation shall be completed within 10 days of its commencement and*  
2612 *the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the*

2613 *Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within*  
2614 *five days of the completion of the formal investigation. A decision shall be rendered within 10 days of the*  
2615 *conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the*  
2616 *order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed*  
2617 *within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render*  
2618 *a decision on the appeal within 10 days of the conclusion of the appeal hearing.*

2619 *D. Service of any order of suspension issued pursuant to this section shall be made by an agent of the*  
2620 *Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately*  
2621 *upon service.*

2622 *E. This section shall not apply to temporary permits granted under § 4.1-808.*

2623 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

2624 *The Board shall suspend or revoke any license if it finds that:*

2625 *1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a*  
2626 *gambling device, upon the premises for which the Board has granted a retail marijuana store license.*

2627 *2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government*  
2628 *or governmental agency or authority, by making or filing any report, document, or tax return required by*  
2629 *statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact*  
2630 *or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or*  
2631 *governmental agency or authority, by making or maintaining business records required by statute or*  
2632 *regulation that are false or fraudulent.*

2633 *3. The licensee is not operational within 24 months of the issuance of the license.*

2634 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

2635 *A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or*  
2636 *contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the*  
2637 *Administrative Process Act (§ 2.2-4000 et seq.).*

2638 *Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,*  
2639 *permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the*  
2640 *licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or*  
2641 *present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board*  
2642 *and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle*  
2643 *against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or*

2644 copies or portions thereof, that are within the possession, custody, or control of the Board and upon which  
2645 the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee.  
2646 In addition, any subpoena for the production of documents issued to any person at the request of the licensee  
2647 or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10  
2648 working days, notwithstanding anything to the contrary in § 4.1-604.

2649 If the Board fails to provide for inspection or copying under this section for the licensee after a written  
2650 request, the Board shall be prohibited from introducing into evidence any items the licensee would have  
2651 lawfully been entitled to inspect or copy under this section.

2652 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be  
2653 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review  
2654 shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the  
2655 Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.  
2656 Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed,  
2657 or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction  
2658 shall lie in any such case.

2659 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such  
2660 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in  
2661 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and  
2662 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty  
2663 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the  
2664 violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding  
2665 the date of the second or subsequent violation. However, if the violation involved selling marijuana or  
2666 marijuana products to a person prohibited from purchasing marijuana or marijuana products or allowing  
2667 consumption of marijuana or marijuana products, the Board may impose a civil penalty not to exceed \$3,000  
2668 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000  
2669 for a second or subsequent violation occurring within five years immediately preceding the date of the second  
2670 or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also  
2671 impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in  
2672 investigating the licensee and in holding the proceeding resulting in the violation in addition to any  
2673 suspension or civil penalty incurred.

2674 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his



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

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

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

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

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

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

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

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

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

1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon permits granted by the Board in accordance with § 4.1-808 and conditions specified by the Board; or

2. Destroyed by the Board or its designee.

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

2706 *within 60 days from the date of such suspension or revocation.*

2707 *C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose*  
2708 *licenses have been terminated other than by suspension or revocation may be disposed of in accordance with*  
2709 *subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.*

2710 *D. All marijuana or marijuana products owned by or remaining in the possession of any person described*  
2711 *in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the*  
2712 *Commonwealth in accordance with the provisions of § 4.1-1303.*

2713 *CHAPTER 10.*

2714 *ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.*

2715 *§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.*

2716 *A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an*  
2717 *application on forms provided by the Board and a statement in writing by the applicant swearing and*  
2718 *affirming that all of the information contained therein is true.*

2719 *B. Such applications, including applications for renewal, shall include any information necessary for the*  
2720 *Board to determine whether the applicant meets or continues to meet the criteria set forth in subdivision B 13*  
2721 *of § 4.1-606.*

2722 *C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by the*  
2723 *Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending*  
2724 *request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an*  
2725 *inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending*  
2726 *application or inspection, such license shall authorize the licensee to purchase marijuana, marijuana*  
2727 *products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle;*  
2728 *however, the licensee shall not sell marijuana, marijuana products, immature marijuana plants, or marijuana*  
2729 *seeds until an inspection is completed.*

2730 *D. Each applicant for a license under the provisions of this subtitle shall post a notice of his application*  
2731 *with the Board on the front door of the building, place, or room where he proposes to engage in such*  
2732 *business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such*  
2733 *information as required by the Board, including a statement that any objections shall be submitted to the*  
2734 *Board not more than 30 days following initial posting of the notice required pursuant to this subsection.*

2735 *The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a*  
2736 *newspaper published in or having a general circulation in the county, city, or town wherein such applicant*

2737 *proposes to engage in such business. Such notice shall contain such information as required by the Board,*  
2738 *including a statement that any objections to the issuance of the license be submitted to the Board not later*  
2739 *than 30 days from the date of the initial newspaper publication.*

2740 *E. The Board shall conduct a background investigation on each license applicant, which shall include a*  
2741 *criminal history records search and may include a fingerprint-based national criminal history records search*  
2742 *and a requirement for the provision of personal descriptive information to be forwarded through the Central*  
2743 *Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal*  
2744 *history record information regarding such applicant. The Central Criminal Records Exchange shall forward*  
2745 *the results of the criminal history background check to the Board or its designee, which shall be a*  
2746 *governmental entity.*

2747 *However, the Board may waive, for good cause shown, the requirement for a criminal history records*  
2748 *search and completed personal data form for officers, directors, nonmanaging members, or limited partners*  
2749 *of any applicant corporation, limited liability company, or limited partnership. In considering criminal*  
2750 *history record information, subject to the provisions of subdivision B 1 b of § 4.1-810, the Board shall not*  
2751 *disqualify an applicant because of a past conviction for a marijuana-related offense.*

2752 *F. The Board shall notify the local governing body of each license application through the town manager,*  
2753 *city manager, county administrator, or other designee of the locality. Local governing bodies shall submit*  
2754 *objections to the granting of a license within 30 days of the filing of the application.*

2755 *G. Each applicant shall pay the required application fee at the time the application is filed. The license*  
2756 *application fee shall be determined by the Board and shall be in addition to the actual cost charged to the*  
2757 *Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records*  
2758 *Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central*  
2759 *Criminal Records Exchange for each criminal history records search required by the Board. Application fees*  
2760 *shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.*

2761 *H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all*  
2762 *licensees shall file and maintain with the Board a current, accurate record of the information required by the*  
2763 *Board pursuant to subsection A and notify the Board of any changes to such information in accordance with*  
2764 *Board regulations.*

2765 *I. Every application for a permit granted pursuant to § 4.1-808 shall be on a form provided by the Board.*  
2766 *Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as*  
2767 *otherwise provided by law.*

2768     *The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for*  
2769 *applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied by*  
2770 *the number of months for which the permit is granted.*

2771     *J. The Board shall have the authority to increase state license fees. The Board shall set the amount of*  
2772 *such increases on the basis of the consumer price index and shall not increase fees more than once every*  
2773 *three years. Prior to implementing any state license fee increase, the Board shall provide notice to all*  
2774 *licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that*  
2775 *would be required for any license affected by the Board's proposed fee increases. Such notice shall be*  
2776 *provided on or before November 1 in any year in which the Board has decided to increase state license fees,*  
2777 *and such increases shall become effective July 1 of the following year.*

2778     **§ 4.1-1001. Labor peace agreements.**

2779     *A. For purposes of this section:*

2780     *"Bona fide labor organization" means a labor organization, as defined by 29 U.S.C. § 402(i), that is*  
2781 *actively seeking to represent marijuana establishment employees in the Commonwealth. In determining*  
2782 *whether a labor organization is a bona fide labor organization, the Authority shall consider each of the*  
2783 *following as indicative, but not determinative, of a finding that a labor organization is a bona fide labor*  
2784 *organization:*

2785     *1. The labor organization has been recognized or certified as the bargaining representative for marijuana*  
2786 *establishment employees in the Commonwealth;*

2787     *2. The labor organization has executed current collective bargaining agreements with marijuana*  
2788 *establishment employers in the Commonwealth;*

2789     *3. The labor organization has spent resources as part of current and active attempts to organize and*  
2790 *represent marijuana establishments in the Commonwealth;*

2791     *4. The labor organization has filed the annual report required by 29 U.S.C. § 431(b) for the three years*  
2792 *immediately preceding;*

2793     *5. The labor organization has audited financial reports covering the three years immediately preceding;*

2794     *6. The existence of written bylaws or a constitution for the three years immediately preceding; and*

2795     *7. The labor organization's affiliation with any regional or national association of unions, including*  
2796 *central labor councils.*

2797     *"Labor peace agreement" means an agreement between a marijuana establishment and a bona fide labor*  
2798 *organization that, at a minimum, protects the Commonwealth's proprietary interests by prohibiting the labor*

2799 organization from engaging in picketing, work stoppages, or boycotts against the marijuana establishment.

2800 B. All marijuana establishment license applicants, renewal applicants, and license holders shall have  
2801 entered into, maintained, and abided by the terms of a labor peace agreement. Such labor peace agreement  
2802 requirement is an ongoing material condition of the license, of which a violation may result in denial,  
2803 suspension, or revocation of the license.

2804 C. All initial marijuana establishment license applicants shall submit a labor peace agreement attestation  
2805 (LPA attestation) signed by both the applicant and the bona fide labor organization stating that the applicant  
2806 meets this section's requirements and has entered into, maintained, and abided by the terms of the LPA  
2807 attestation. All renewal applicants must submit a new LPA attestation executed within 10 days of the  
2808 submission date of the renewal application. An applicant's failure to submit a timely LPA attestation shall  
2809 result in a denial of the initial or renewal license.

2810 D. The Authority shall be required to determine a schedule establishing the ongoing review of the status  
2811 and maintenance of a labor peace agreement to assess eligibility of license holder. Upon review and findings  
2812 of unsatisfactory status or the insufficient maintenance of a labor peace agreement, the Authority shall  
2813 suspend a licensee for a marijuana establishment.

2814 **§ 4.1-1002. Fees for state licenses.**

2815 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover the  
2816 costs of regulating the marijuana establishment

2817 B. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant  
2818 license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall  
2819 be liable to state merchants' license taxation, state restaurant license taxation, and other state taxation.

2820 C. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in  
2821 person from the Board if such license is available for purchase online.

2822 **§ 4.1-1003. Refund of state license fee.**

2823 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any  
2824 amounts collected through erroneous assessments or collected as fees on license applications that are  
2825 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is  
2826 subsequently merged or changed into another license during the same license period. No refund shall be  
2827 made of any such amount, however, unless made within three years from the date of collection of the same.

2828 B. In any case where a licensee has changed its name or form of organization during a license period  
2829 without any change being made in its ownership, and because of such change is required to pay an additional

license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of the required license fee for such period.

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

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

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

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

1. From a marijuana establishment to another marijuana establishment.

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

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

4. Of a hemp product.

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

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

2861 *C. Any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable*  
2862 *under subsection A shall be limited to a 1.125 percent tax, which shall be distributed as follows: (i) the*  
2863 *revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of*  
2864 *§ 58.1-638 and (ii) the revenue from the tax at the rate of 0.125 percent shall be distributed as provided in*  
2865 *subdivision F 2 of § 58.1-638. No other tax shall be levied pursuant to the Virginia Retail Sales and Use Tax*  
2866 *Act (§ 58.1-600 et seq.) on a sale taxable under subsection A.*

2867 *D. All revenues remitted to the Authority under this subsection shall be disposed of as provided in*  
2868 *§ 4.1-614.*

2869 ***§ 4.1-1005. Tax returns and payments; commissions; interest.***

2870 *A. For any sale taxable under § 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes*  
2871 *collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable*  
2872 *for collecting or remitting the taxes or filing a return.*

2873 *B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1004 shall file a*  
2874 *return under oath with the Authority and pay any taxes due. Upon written application by a person filing a*  
2875 *return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar*  
2876 *month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of*  
2877 *any interest or penalties under § 4.1-1008.*

2878 *C. The Authority may accept payment by any commercially acceptable means, including cash, checks,*  
2879 *credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this*  
2880 *subtitle. The Board may assess a service charge for the use of a credit or debit card.*

2881 *D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or*  
2882 *automated clearinghouse transfer information and use such information for future payments of taxes,*  
2883 *interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments*  
2884 *made under this subsection. The Authority may procure the services of a third-party vendor for the secure*  
2885 *storage of information collected pursuant to this subsection.*

2886 *E. If any person liable for tax under § 4.1-1004 sells out his business or stock of goods or quits the*  
2887 *business, such person shall make a final return and payment within 15 days after the date of selling or*  
2888 *quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase*  
2889 *money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner*  
2890 *produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or*  
2891 *interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided*

2892 in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and  
2893 unpaid on account of the operation of the business by any former owner.

2894 F. When any person fails to timely pay the full amount of tax due under § 4.1-1004, interest at a rate  
2895 determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under  
2896 § 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

2897 **§ 4.1-1006. Bonds.**

2898 The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the  
2899 taxes levied under § 4.1-1004, require any person subject to such tax to file a bond, with such surety as it  
2900 determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due  
2901 from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State  
2902 Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State  
2903 Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to  
2904 recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above  
2905 the amounts due shall be returned to the person who deposited the securities.

2906 **§ 4.1-1007. Refunds.**

2907 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1004  
2908 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be  
2909 unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed  
2910 voluntarily, after notice to and approval by the Authority of such destruction, because the taxable items were  
2911 defective; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,  
2912 the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state  
2913 treasury to such extent as may be proper.

2914 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items  
2915 that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify  
2916 such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may  
2917 be proper.

2918 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1004 has  
2919 been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of  
2920 tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the  
2921 seller shall not, however, include the tax paid upon any amount retained by the seller after such return of  
2922 merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting



2923 *his return.*

2924 **§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

2925 *A. The taxes imposed under § 4.1-1004 shall be assessed within three years from the date on which such*  
2926 *taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the*  
2927 *Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the*  
2928 *collection of such taxes may be begun without assessment, at any time within six years from such date. The*  
2929 *Authority shall not examine any person's records beyond the three-year period of limitations unless it has*  
2930 *reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a*  
2931 *return and failed to do so.*

2932 *B. If any person fails to file a return as required by this section, or files a return that is false or*  
2933 *fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and*  
2934 *assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days'*  
2935 *notice requiring such person to provide any records as it may require relating to the business of such person*  
2936 *for the taxable period. The Authority may require such person or the agents and employees of such person to*  
2937 *give testimony or to answer interrogatories under oath administered by the Authority respecting taxable*  
2938 *sales, the filing of the return, and any other relevant information. If any person fails to file a required return,*  
2939 *refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority*  
2940 *may make an estimated assessment based upon the information available to it and issue a memorandum of*  
2941 *lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall*  
2942 *be deemed prima facie correct.*

2943 *C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay*  
2944 *within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority*  
2945 *may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's*  
2946 *place of business is located or in which the person resides. If the person has no place of business or residence*  
2947 *within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A*  
2948 *copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person*  
2949 *owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect*  
2950 *of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of*  
2951 *Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed.*  
2952 *The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which*  
2953 *the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more*

2954 days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the  
2955 collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the  
2956 provision of such notice, notification may be provided to the person concurrent with the filing of the  
2957 memorandum of lien. Such notice shall be given to the person at his last known address.

2958 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal  
2959 under § 4.1-1009.

2960 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the  
2961 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or  
2962 paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the  
2963 doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory  
2964 arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It  
2965 shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the  
2966 Authority. In the event that the person against whom the distraint has been applied subsequently appeals  
2967 under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of  
2968 payment until the appeal is resolved.

2969 4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if  
2970 the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition  
2971 within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release  
2972 of the lien within seven days after such determination is made.

2973 **§ 4.1-1009. Appeals.**

2974 Any tax imposed under § 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority  
2975 under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to review under the  
2976 Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of  
2977 the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal  
2978 shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final  
2979 judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending  
2980 appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

2981 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or**  
2982 **older lawful; penalties.**

2983 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person  
2984 21 years of age or older may lawfully possess on his person or in any public place not more than ~~one ounce~~

2985 *two and one-half ounces* of marijuana or an equivalent amount of marijuana product as determined by  
2986 regulation promulgated by the Board.

2987 B. Any person who possesses on his person or in any public place marijuana or marijuana products in  
2988 excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except as  
2989 otherwise provided in this section. The penalty for any violations of this section by an adult shall be  
2990 prepayable according to the procedures in § 16.1-69.40:2.

2991 C. With the exception of possession by a person in his residence or possession by a licensee in the course  
2992 of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in  
2993 any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount  
2994 of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3  
2995 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound  
2996 of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the  
2997 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10  
2998 years and a fine of not more than \$250,000, or both.

2999 D. The provisions of this section shall not apply to members of federal, state, county, city, or town  
3000 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of  
3001 dogs trained in the detection of controlled substances when possession of marijuana is necessary for the  
3002 performance of their duties.

3003 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

3004 A. ~~Notwithstanding the provisions of subdivision (c) of § 18.2-248.1,~~ a A person 21 years of age or older  
3005 may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point  
3006 shall a household contain more than four marijuana plants. For purposes of this section, a "household" means  
3007 those individuals, whether related or not, who live in the same house or other place of residence.

3008 A person may only cultivate marijuana plants pursuant to this section at such person's main place of  
3009 residence.

3010 A violation of this subsection shall be punishable as follows:

3011 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil  
3012 penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2  
3013 misdemeanor for a third and any subsequent offense;

3014 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3015 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

3016 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of  
3017 not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

3018 B. A person who cultivates marijuana for personal use pursuant to this section shall:

3019 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or  
3020 other optical aids;

3021 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3022 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
3023 identification number, and a notation that the marijuana plant is being grown for personal use as authorized  
3024 under this section.

3025 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The penalty for  
3026 any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

3027 ~~C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a~~  
3028 ~~property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture~~  
3029 ~~marijuana concentrate from home-cultivated marijuana within or on that property or land.~~

3030 **§ 4.1-1102. Illegal cultivation or processing of marijuana or marijuana products; conspiracy; penalties.**

3031 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or process  
3032 marijuana or marijuana products in the Commonwealth without being licensed to cultivate or process such  
3033 marijuana or marijuana products.

3034 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

3035 C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or  
3036 more of such persons does any act to effect the object of the conspiracy, each of the parties to such  
3037 conspiracy is guilty of a Class 6 felony.

3038 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

3039 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who  
3040 are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)  
3041 marijuana is given away contemporaneously with another reciprocal transaction between the same parties;  
3042 (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services;  
3043 or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

3044 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give, or

3045 *distribute any marijuana or marijuana products except as permitted by this chapter or provided in subsection*  
3046 *C, he is guilty of a Class 2 misdemeanor.*

3047 *A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.*

3048 *C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not*  
3049 *exceed two and one-half ounces or of an equivalent amount of marijuana products.*

3050 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;**  
3051 **penalties.**

3052 *A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give, or*  
3053 *distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or*  
3054 *has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii)*  
3055 *intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3056 *B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any*  
3057 *marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the*  
3058 *sale does not require the individual to present bona fide evidence of legal age indicating that the individual is*  
3059 *21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to*  
3060 *any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the*  
3061 *United States or the District of Columbia, military identification card, United States passport or foreign*  
3062 *government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any*  
3063 *other valid government-issued identification card bearing the individual's photograph, signature, height,*  
3064 *weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of*  
3065 *the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes*  
3066 *of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.*

3067 *C. No person shall be convicted of both subsections A and B for the same sale.*

3068 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**  
3069 **exceptions; penalties; forfeiture; treatment and education programs and services.**

3070 *A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104 shall*  
3071 *consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana*  
3072 *products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his*  
3073 *agent when possession of marijuana or marijuana products is necessary in the performance of his duties.*  
3074 *Such person may be prosecuted either in the county or city in which the marijuana or marijuana products*  
3075 *were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia*

3076 *of consumption of marijuana or marijuana products.*

3077 *B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more*  
3078 *than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if*  
3079 *available, that in the opinion of the court best suits the needs of the accused.*

3080 *C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates*  
3081 *subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter*  
3082 *a substance abuse treatment or education program or both, if available, that in the opinion of the court best*  
3083 *suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and*  
3084 *16.1-278.9, the court shall treat the juvenile as delinquent.*

3085 *D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to*  
3086 *this section shall be provided by (i) a program licensed by the Department of Behavioral Health and*  
3087 *Developmental Services or (ii) a similar program available through a facility or program operated by or*  
3088 *under contract with the Department of Juvenile Justice or a locally operated court services unit or a program*  
3089 *funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such*  
3090 *substance abuse treatment or education program to which a person 18 years of age or older is ordered*  
3091 *pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health*  
3092 *and Developmental Services or (b) a program or services made available through a community-based*  
3093 *probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one*  
3094 *has been established for the locality. When an offender is ordered to a local community-based probation*  
3095 *services agency, the local community-based probation services agency shall be responsible for providing for*  
3096 *services or referring the offender to education or treatment services as a condition of probation.*

3097 *E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender*  
3098 *Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of*  
3099 *age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor*  
3100 *vehicle; (ii) altered, fictitious, facsimile, or simulated document, including a birth certificate or student*  
3101 *identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3*  
3102 *(§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student*  
3103 *identification card of another person in order to establish a false identification or false age for himself to*  
3104 *consume, purchase, or attempt to consume or purchase marijuana or marijuana products. Any person*  
3105 *convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3106 *F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be*

3107 *deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3108 *G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local*  
3109 *law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from*  
3110 *an administrative penalty for a violation of § 4.1-1104.*

3111 ***§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be sold;***  
3112 ***penalties; forfeiture.***

3113 *A. Any person who purchases marijuana or marijuana products for another person and at the time of such*  
3114 *purchase knows or has reason to believe that the person for whom the marijuana or marijuana products were*  
3115 *purchased was intoxicated is guilty of a Class 1 misdemeanor.*

3116 *B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of marijuana or*  
3117 *marijuana products to, another person when he knows or has reason to know that such person is younger*  
3118 *than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of*  
3119 *marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1*  
3120 *misdemeanor.*

3121 *C. Any marijuana or marijuana products purchased in violation of this section shall be deemed*  
3122 *contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3123 ***§ 4.1-1113. Maintaining common nuisances; penalties.***

3124 *A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every*  
3125 *description where marijuana or marijuana products are manufactured, processed, stored, sold, dispensed,*  
3126 *given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common*  
3127 *nuisances.*

3128 *No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common*  
3129 *nuisance.*

3130 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3131 *B. In addition, after due notice and an opportunity to be heard on the part of any owner or lessor not*  
3132 *involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof of*  
3133 *guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or*  
3134 *any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of*  
3135 *not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be*  
3136 *used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the*  
3137 *same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1300.*

3138 *C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or*  
3139 *lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had*  
3140 *the right, because of such unlawful use, to enter and repossess the property.*

3141 ***§ 4.1-1114. Maintaining a fortified drug house; penalty.***

3142 *Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,*  
3143 *dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its*  
3144 *original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-*  
3145 *enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,*  
3146 *processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a*  
3147 *fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5*  
3148 *felony.*

3149 ***§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.***

3150 *No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any*  
3151 *agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any*  
3152 *hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold*  
3153 *and conduct such hearing.*

3154 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3155 ***§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.***

3156 *No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional*  
3157 *correctional facility or any person committed to the Department of Juvenile Justice in any juvenile*  
3158 *correctional center any marijuana or marijuana products.*

3159 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3160 ***§ 4.1-1118. Separation of plant resin by butane extraction; penalty.***

3161 *A. No person shall separate plant resin by butane extraction or another method that utilizes a substance*  
3162 *with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of*  
3163 *any residential structure.*

3164 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3165 ***§ 4.1-1119. Attempts; aiding or abetting; penalty.***

3166 *No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in*  
3167 *doing, or attempting to do, any of the things prohibited by this subtitle.*

3168 *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find*



**3169** *the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the*  
**3170** *defendant were solely guilty of such violation.*

**3171 § 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

**3172** Any violation under this subtitle that is subject to a civil penalty is a civil offense and, *except in the case*  
**3173** *of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded*  
**3174** *against pursuant to § 16.1-260*, shall be charged by summons. A summons for a violation under this subtitle  
**3175** that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is  
**3176** observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in  
**3177** a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to  
**3178** § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender  
**3179** Assessment and Treatment Fund established pursuant to § 18.2-251.02.

## 3180 CHAPTER 12.

3181 *PROHIBITED PRACTICES BY LICENSEES.*

**3182**      *§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.*

**3183**      *A. No licensee or any agent or employee of such licensee shall:*

**3184** 1. Cultivate, process, transport, sell, or test any marijuana or marijuana products other than that which

**3185** such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

3186       2. Sell marijuana or marijuana products to any person other than a person to whom such license or this  
3187 subtitle authorizes him to sell;

**3188**       3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or this  
**3189** subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle  
**3190** authorizes him to cultivate, process, transport, sell, or test;

**3191** 4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this

**3192** subtitle;

**3193** 5. *Keep or allow to be kept on the licensed premises, any marijuana or marijuana products other than*  
**3194** *that which he is authorized to cultivate, process, transport, sell, or test by such license or by this subtitle;*

**3195** 6. *Keep any marijuana or marijuana product other than in the container in which it was purchased by*  
**3196** *him; or*

**3197** 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

**3198** *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3199 § 4.1-1201. *Prohibited acts by employees of licensees; civil penalty.*

3200 A. In addition to the provisions of § 4.1-1200, no licensee, or his agent or employee shall use or consume  
3201 any marijuana or marijuana products (i) on the licensed premises, except for certain sampling for quality  
3202 control purposes in accordance with Board regulations or (ii) while on duty and in a position that is involved  
3203 in the selling of marijuana or marijuana products to consumers.

3204 B. No licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

3205 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to  
3206 exceed \$500. Upon a second or subsequent violation of this section, (i) if the person convicted is licensee, the  
3207 Board shall revoke any license held by the licensee and (ii) if the person convicted is an agent of the licensee  
3208 or employee, the Board shall require the licensee terminate such agent or employee's employment. Any such  
3209 licensee, agent, or employee convicted of a second or subsequent violation of this section shall be prohibited  
3210 from obtaining any marijuana establishment license and employment at a marijuana establishment.

3211 § 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a  
3212 license; penalty.

3213 Except as otherwise provided in § 4.1-807, no retail marijuana store licensee shall purchase for resale or  
3214 sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from  
3215 anyone other than a marijuana cultivation facility or marijuana processing facility.

3216 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3217 § 4.1-1203. Prohibiting transfer of marijuana or marijuana products by certain licensees; penalty.

3218 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one  
3219 licensed place of business to another licensed place of business unless (i) such licensed marijuana  
3220 establishment is authorized to transfer marijuana or marijuana products from one licensed place of business  
3221 to another licensed place of business and the transfer is completed by the licensee or an employee of the  
3222 licensee or (ii) such transfer is completed by a marijuana transporter licensee.

3223 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3224 § 4.1-1204. Illegal advertising materials; civil penalty.

3225 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any  
3226 licensee selling, renting, lending, buying for, or giving to any person any advertising materials or  
3227 decorations under circumstances prohibited by this title or Board regulations.

3228 Any person found by the Board to have violated this section shall be subject to a civil penalty as  
3229 authorized in § 4.1-903.

3230 § 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to

3231 *allow examination and inspection; penalty.*

3232 *A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1004; (ii) deliver, keep, and*  
3233 *preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)*  
3234 *allow such records, invoices, and accounts or his place of business to be examined and inspected in*  
3235 *accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1*  
3236 *misdemeanor.*

3237 *B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may*  
3238 *suspend or revoke any license of such licensee that was issued by the Authority.*

3239 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

3240 *A. No person shall make a sale taxable under § 4.1-1004 without paying all applicable taxes due. No*  
3241 *retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or marijuana*  
3242 *products on which such retailer has reason to know such tax has not been paid and may not be paid. Any*  
3243 *person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3244 *B. Any person who fails to file a return required for a tax due under § 4.1-1004 is subject to a civil*  
3245 *penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more*  
3246 *than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which*  
3247 *the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.*

3248 *C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of*  
3249 *any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the amount of the proper tax*  
3250 *due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall*  
3251 *be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable*  
3252 *sales to the Authority at 50 percent or less of the actual amount.*

3253 *D. If any check tendered for any amount due under § 4.1-1004 or this section is not paid by the bank on*  
3254 *which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five*  
3255 *days after the Authority gives it notice that such check was returned unpaid, the person that tendered the*  
3256 *check is guilty of a violation of § 18.2-182.1.*

3257 *E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner*  
3258 *as if they were a part of the tax imposed.*

3259 **§ 4.1-1300. Enjoining nuisances.**

3260 *A. In addition to the penalties imposed by § 4.1-1113, the Board, its agents, the attorney for the*  
3261 *Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113*

exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

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

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

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

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

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

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

3293 *B. Whenever any article declared contraband under the provisions of this subtitle and required to be*  
3294 *forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the*  
3295 *enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it*  
3296 *was found. In those cases where no person is found in possession of such articles, the return shall so state*  
3297 *and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found,*  
3298 *or if there is no door, then in any conspicuous place upon the premises.*

3299 *In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove*  
3300 *such item to a place of safe storage from the place where seized, the seizing officer may destroy such item*  
3301 *only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least*  
3302 *one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction*  
3303 *to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for*  
3304 *seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining*  
3305 *after such destruction. The report shall include a statement that, from facts within their own knowledge, the*  
3306 *seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the*  
3307 *unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such*  
3308 *apparatus to a place of safe storage.*

3309 *In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture*  
3310 *of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose*  
3311 *of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other*  
3312 *violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such*  
3313 *witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The*  
3314 *report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a*  
3315 *statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever*  
3316 *that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or*  
3317 *manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.*

3318 *C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10*  
3319 *days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such*  
3320 *return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept,*  
3321 *stored, or possessed in violation of this subtitle.*

3322 *At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the*  
3323 *Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn*

3324 *them over to the Board. Any person claiming an interest in any of the articles seized may appear at the*  
3325 *hearing and file a written claim setting forth particularly the character and extent of his interest. The court*  
3326 *shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and*  
3327 *determine the validity of such claim.*

3328 *If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be*  
3329 *turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a*  
3330 *bar to any prosecution under any other provision of this subtitle.*

3331 *D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this*  
3332 *section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be*  
3333 *paid into the Literary Fund.*

3334 *If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in*  
3335 *accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be*  
3336 *impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the*  
3337 *local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be*  
3338 *made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and*  
3339 *shall be kept in the offices of the Board.*

3340 **§ 4.1-1304. Contraband marijuana or marijuana products.**

3341 *Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the*  
3342 *Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when*  
3343 *other Board regulations applicable to such transportation have been complied with shall not be cause for*  
3344 *deeming such marijuana or marijuana products contraband.*

3345 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

3346 *A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to*  
3347 *the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating*  
3348 *any Board regulation is guilty of a Class 1 misdemeanor.*

3349 *B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is*  
3350 *convicted of a violation of any provision of this subtitle may require such defendant to execute bond based*  
3351 *upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that*  
3352 *the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is*  
3353 *required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged*  
3354 *by the court, provided that he shall not be confined for a period longer than six months. If any such bond*

3355 *required by a court is not given during the term of the court by which conviction is had, it may be given*  
3356 *before any judge or before the clerk of such court.*

3357 *C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to*  
3358 *continue the license of any person convicted of a violation of any provision of this subtitle.*

3359 *D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant*  
3360 *has been notified that such a case is pending.*

3361 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

3362 *No person shall be excused from testifying or from producing books, papers, correspondence,*  
3363 *memoranda, or other records for the Commonwealth as to any offense alleged to have been committed by*  
3364 *another under this subtitle by reason of his testimony or other evidence tending to incriminate himself, but*  
3365 *the testimony given and evidence so produced by such person on behalf of the Commonwealth when called*  
3366 *for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned*  
3367 *by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall*  
3368 *be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies.*

3369 **§ 4.1-1307. Previous convictions.**

3370 *In any indictment, information, or warrant charging any person with a violation of any provision of this*  
3371 *subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such*  
3372 *person has been previously convicted of a violation of this subtitle.*

3373 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

3374 *In any prosecution for violations of this subtitle, where a sealed container is labeled as containing*  
3375 *marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the*  
3376 *container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana*  
3377 *content of a container, whether sealed or not.*

3378 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

3379 *No action to recover the price of any marijuana or marijuana products sold in contravention of this*  
3380 *subtitle may be maintained.*

3381 **§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.**

3382 *A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a*  
3383 *synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500*  
3384 *linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign*  
3385 *face upon which the advertisement is placed to the nearest edge of a building or structure located on the real*

property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grades K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of the advertisement on a sign will not unduly expose children to advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. *Any outdoor signs placed on the property of a marijuana establishment shall not (i) display imagery of marijuana or the use of marijuana or (ii) draw undue attention to the facility, but may be designed to assist consumers to find the marijuana establishment.*

G. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned



property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

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

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

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

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

*A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of*

allowable contamination for any contaminant that is injurious to health and for which testing is required and (ii) the labeling on the marijuana or marijuana product is correct.

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

1. Residual solvents;

2. Heavy metals;

3. Microbiological contaminants;

4. Mycotoxins;

5. Pesticide chemical residue; and

6. Active ingredient analysis.

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

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

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

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

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

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

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

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

3477 1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle  
3478 and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing  
3479 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable  
3480 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing  
3481 is required;

3482 2. The mandatory testing process and the test results for the marijuana or marijuana product are  
3483 documented in accordance with the requirements of this subtitle and all applicable regulations adopted  
3484 pursuant to this subtitle;

3485 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the  
3486 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or  
3487 to a consumer can be easily identified; and

3488 4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or  
3489 alteration subsequent to the performance of the prior testing under subsection A.

3490 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana  
3491 products whose testing samples indicate noncompliance with the health and safety standards required by this  
3492 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can  
3493 bring the marijuana or marijuana product into compliance with such required health and safety standards.

3494 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for the  
3495 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

3496 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

3497 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be  
3498 labeled with the following information:

3499 1. Identification of the type of marijuana or marijuana product;

3500 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and the  
3501 retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered for  
3502 sale, as applicable;

3503 3. A statement of the net weight of the marijuana or marijuana product;

3504 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,  
3505 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid  
3506 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains  
3507 tetrahydrocannabinol, the total percentage and milligrams of tetrahydrocannabinol and cannabidiol included

3508 *in an edible cannabis product or topical cannabis product, the number of milligrams of tetrahydrocannabinol*  
3509 *and cannabidiol in each serving of the edible cannabis product or topical cannabis product, and the total*  
3510 *percentage of tetrahydrocannabinol and cannabidiol included in the inhalable cannabis product; and (v) the*  
3511 *potency of the tetrahydrocannabinol and other cannabinoid content;*

3512 *5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;*

3513 *6. Instructions on usage, including information regarding the amount of marijuana or marijuana product*  
3514 *that constitutes a single serving;*

3515 *7. A recommended use by date or expiration date;*

3516 *8. For marijuana and marijuana products, the following statement, prominently displayed in bold print*  
3517 *and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA*  
3518 *AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND USED BY*  
3519 *ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF*  
3520 *MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING.*  
3521 *MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE*  
3522 *CAUTION AND VISIT \_\_\_\_\_ (website maintained by the Board pursuant to § 4.1-604) FOR MORE*  
3523 *INFORMATION.";*

3524 *9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;*

3525 *10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total*  
3526 *tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the*  
3527 *batch from which the substance originates; and*

3528 *11. Any other information required by Board regulations.*

3529 *B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in*  
3530 *accordance with the provisions of this subtitle shall be packaged in the following manner:*

3531 *1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and*  
3532 *resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-*  
3533 *resistant, tamper-evident, and resealable packaging that is opaque;*

3534 *2. Packaging for multiserving liquid marijuana products shall include an integral measurement*  
3535 *component; and*

3536 *3. Packaging shall comply with any other requirements imposed by Board regulations.*

3537 *C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in*  
3538 *accordance with the provisions of this subtitle shall not:*

3539 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be  
3540 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying  
3541 mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a  
3542 product intended for human consumption other than the manufacturer, processor, packer, or distributor that  
3543 did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or  
3544 labeled in violation of a federal trademark law or regulation;

3545 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

3546 3. Be labeled or packaged in a manner that obscures identifying information on the label;

3547 4. Be labeled or packaged using a false or misleading label;

3548 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a human,  
3549 animal, vehicle, or fruit; and

3550 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board  
3551 regulations.

3552 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other marijuana**  
3553 **products deemed applicable by the Authority; health and safety regulations.**

3554 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other  
3555 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a  
3556 consumer:

3557 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

3558 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

3559 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within the  
3560 product being homogeneous throughout the product or throughout each element of the product that has a  
3561 cannabinoid content;

3562 4. Shall be processed and manufactured in a manner that results in the amount of marijuana concentrate  
3563 within the product being homogeneous throughout the product or throughout each element of the product  
3564 that contains marijuana concentrate;

3565 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

3566 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and shall  
3567 not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

3568 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed  
3569 to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v)

3570 *are specifically designed to make the product appeal particularly to persons younger than 21 years of age;*  
3571 *and*

3572 *8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the*  
3573 *trademarked product is used as a component of or ingredient in the edible marijuana product and the edible*  
3574 *marijuana product is not advertised or described for sale as containing the trademarked product.*

3575 *B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it*  
3576 *deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee to a*  
3577 *consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish*  
3578 *mandatory health and safety standards applicable to the cultivation of marijuana, the processing and*  
3579 *manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana products*  
3580 *sold by a licensee to a consumer. Such regulations shall address:*

3581 *1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana products*  
3582 *by licensees;*

3583 *2. Sanitary standards for marijuana establishments, including sanitary standards for the processing and*  
3584 *manufacture of marijuana and marijuana products; and*

3585 *3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.*

3586 ***§ 4.1-1407. Product registration requirements; approval, deviation, and modification.***

3587 *A. A marijuana cultivation facility licensee, marijuana processing facility licensee, and microbusiness*  
3588 *licensee shall register with the Board all marijuana or marijuana products it cultivates or processes.*  
3589 *Applications for marijuana or marijuana product registration shall be submitted to the Board on a form*  
3590 *prescribed by the Board.*

3591 *B. An application for marijuana or marijuana product registration shall include:*

3592 *1. The total tetrahydrocannabinol and total cannabidiol in such marijuana or marijuana product, based*  
3593 *on laboratory testing results for the marijuana or marijuana product formulation;*

3594 *2. A product name;*

3595 *3. A proposed product package; and*

3596 *4. A proposed product label, which shall not be required to contain an expiration date at the time of*  
3597 *application.*

3598 *C. The Board shall register all marijuana or marijuana products that meet testing, labeling, and*  
3599 *packaging standards after an application for registration is submitted. If the marijuana or marijuana product*  
3600 *fails to meet such standards or the application was deficient, the Board shall notify the applicant of the*

3601 *specific reasons for such failure or deficiency.*

3602 *D. The following marijuana or marijuana product deviations from an approved marijuana or marijuana*  
3603 *product registration shall be permitted without any requirement for a new marijuana or marijuana product*  
3604 *registration or notice to the Board:*

3605 *1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a*  
3606 *marijuana or marijuana product or dose thereof of up to 15 percent greater than or less than the*  
3607 *concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved*  
3608 *marijuana or marijuana product registration; however, for marijuana or a marijuana product with five*  
3609 *milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be*  
3610 *within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that marijuana*  
3611 *or marijuana product;*

3612 *2. A variation in packaging, provided that the packaging is substantially similar to the approved*  
3613 *packaging and otherwise complies with applicable packaging requirements;*

3614 *3. A deviation in labeling that reflects allowable deviations in total THC or total CBD or that makes a*  
3615 *minor text, font, design, or similar modification, provided that the labeling is substantially similar to the*  
3616 *approved labeling and otherwise complies with applicable labeling requirements; and*

3617 *4. Any other insignificant changes.*

3618 *F. A marijuana cultivation facility licensee, marijuana processing facility licensee, or microbusiness*  
3619 *license may submit a request to modify an existing marijuana or marijuana product registration in the event*  
3620 *of a marijuana or marijuana product deviation that is not set forth in subsection E. Upon receipt, the Board*  
3621 *shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or*  
3622 *require the licensee to provide additional information.*

3623 **§ 4.1-1500. Definitions.**

3624 *As used in this chapter, unless the context requires a different meaning:*

3625 *"CDFI" means a community development financial institution that provides credit and financial services*  
3626 *for underserved communities.*

3627 *"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.*

3628 *"Funding" means loans and grants made from the Fund.*

3629 *"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.*

3630 *"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606*  
3631 *to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined*

3632 by the Board; a license to operate a marijuana establishment.

3633     **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

3634     There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
3635 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established  
3636 on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,  
3637 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.  
3638 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining  
3639 in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but  
3640 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing *grants*,  
3641 low-interest ~~and loans~~, zero-interest loans, *and other supports and services* to ~~social equity qualified cannabis~~  
3642 *impact* licensees in order to foster business ownership and economic growth within communities that have  
3643 been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and  
3644 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller  
3645 upon written request signed by the Chief Executive Officer of the Authority.

3646     **§ 4.1-1502. Program requirements; guidelines for management of the Fund; selection of CDFI.**

3647     A. The Authority shall establish a Program to provide loans, *grants, and other supports and services* to  
3648 ~~qualified social equity cannabis impact~~ licensees for the purpose of promoting business ownership and  
3649 economic growth by communities that have been disproportionately impacted by the prohibition of cannabis.  
3650 ~~The For the purposes of issuing loans, the Authority shall~~ may select and work in collaboration with a CDFI  
3651 ~~to assist in administering the Program and carrying out the purposes of the Fund. The If the Authority utilizes~~  
3652 ~~a CDFI for issuing loans, the~~ CDFI selected by the Authority shall have (i) a statewide presence in Virginia,  
3653 (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities,  
3654 and (iv) the capability to dedicate sufficient staff to manage the Program. ~~Working with the selected CDFI,~~  
3655 ~~the~~ The Authority shall establish monitoring and accountability mechanisms for ~~businesses impact~~ licensees  
3656 receiving funding and shall report annually the number of businesses funded; the geographic distribution of  
3657 the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

3658     B. The Program shall:

3659     1. Identify ~~social equity qualified cannabis impact~~ licensees who are in need of capital *or other supports*  
3660 *and services* for the start-up of a cannabis business properly licensed pursuant to the provisions of this  
3661 subtitle;

3662     2. Provide loans, *grants, and other supports and services* for the purposes described in subsection A and



3663 § 4.1-1501;

3664 3. Provide technical assistance; and

3665 4. Bring together community partners to sustain the Program.

3666 **§ 4.1-1600. Definitions.**

3667 As used in this chapter, unless the context requires a different meaning:

3668 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of  
3669 the same chemovar of cannabis plant.

3670 "Cannabis dispensing facility" means a *dual-use* facility that (i) has obtained a permit from the Board  
3671 pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; ~~and~~ (iii) dispenses  
3672 cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient  
3673 is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; *and (iv)*  
3674 *holds and exercises all privileges to operate as a retail marijuana store pursuant to § 4.1-802 on the*  
3675 *premises of the cannabis dispensing facility..*

3676 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial  
3677 hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to  
3678 § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this  
3679 chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include  
3680 industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or  
3681 federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp  
3682 processor and acquired and formulated by a pharmaceutical processor.

3683 "Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is  
3684 produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing  
3685 facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more  
3686 than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

3687 "*Delivery agent*" means an independent contractor that transports or delivers usable cannabis, botanical  
3688 cannabis, cannabis oil, or cannabis products on behalf of a pharmaceutical processor or cannabis  
3689 dispensing facility.

3690 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or  
3691 home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health  
3692 services, private provider licensed by the Department of Behavioral Health and Developmental Services  
3693 pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant

3694 to § 63.2-1701, or adult day center licensed pursuant to § 63.2-1701.

3695 "Dispense" means the same as that term is defined in § 54.1-3300.

3696 *"Edible cannabis product" means a cannabis product that is intended to be ingested and is (i) formulated*  
3697 *with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a*  
3698 *pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant*  
3699 *with testing requirements.*

3700 *"Inhalable cannabis product" means a cannabis product that is intended to be inhaled and is (i)*  
3701 *formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by*  
3702 *a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv)*  
3703 *compliant with testing requirements.*

3704 "Pharmaceutical processor" means a *dual-use* facility that (i) has obtained a permit from the Board  
3705 pursuant to § 4.1-1602 ~~and~~; (ii) cultivates Cannabis plants intended ~~only~~ for the production of cannabis oil,  
3706 botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a  
3707 patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable  
3708 adult as defined in § 18.2-369, such patient's parent or legal guardian; *and (iii) holds and exercises all*  
3709 *privileges to operate as a marijuana cultivation facility pursuant to § 4.1-800, marijuana processing facility*  
3710 *pursuant to § 4.1-801, and retail marijuana store pursuant to § 4.1-802.*

3711 "Pharmacist" means the same as that term is defined in § 54.1-3300.

3712 "Pharmacy intern" means the same as that term is defined in § 54.1-3300.

3713 "Pharmacy technician" means the same as that term is defined in § 54.1-3300.

3714 "Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

3715 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a  
3716 physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse jointly  
3717 licensed by the Boards of Nursing and Medicine.

3718 "Registered agent" means an individual designated by a patient who has been issued a written  
3719 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such  
3720 patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

3721 *"Topical cannabis product" means a cannabis product that is intended to be applied topically to the skin*  
3722 *and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor*  
3723 *and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and*  
3724 *(iv) compliant with testing requirements.*

3725 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been  
3726 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from  
3727 the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks;  
3728 or (iii) oil or cake made from the seeds of the plant.

3729 **§ 4.1-1601. Certification for use of cannabis for treatment.**

3730 A. A practitioner in the course of his professional practice may issue a written certification for the use of  
3731 cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease  
3732 determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment  
3733 to determine the manner and frequency of patient care and evaluation and may employ the use of  
3734 telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time  
3735 interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is  
3736 on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor  
3737 shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines  
3738 it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification  
3739 shall specifically authorize such dispensing. If not specifically included on the initial written certification,  
3740 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the  
3741 time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept,  
3742 solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any  
3743 person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia,  
3744 excluding information on products or educational materials on the benefits and risks of cannabis products.

3745 B. The written certification shall be on a form provided by the Authority. Such written certification shall  
3746 contain the name, address, and telephone number of the practitioner, the name and address of the patient  
3747 issued the written certification, the date on which the written certification was made, and the signature or  
3748 authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A  
3749 shall expire one year after its issuance unless the practitioner provides in such written certification an earlier  
3750 expiration. A written certification shall not be issued to a patient by more than one practitioner during any  
3751 given time period.

3752 C. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.)* or § 18.2-248 ~~or 18.2-248.1~~  
3753 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the

3754 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to  
3755 subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from  
3756 sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise  
3757 violating the applicable standard of care for evaluating or treating medical conditions.

3758 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold  
3759 sufficient education and training to exercise appropriate professional judgment in the certification of patients;  
3760 (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or  
3761 registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical  
3762 processor or cannabis product; (iii) shall not issue a certification to himself or his family members,  
3763 employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those  
3764 approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a  
3765 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to  
3766 whom a practitioner may issue a written certification. The Board may report information to the applicable  
3767 licensing board on unusual patterns of certifications issued by a practitioner.

3768 E. No patient shall be required to physically present the written certification after the initial dispensing by  
3769 any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that  
3770 the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written  
3771 certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a  
3772 monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing  
3773 facility to the Authority.

3774 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's  
3775 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of  
3776 receiving cannabis products pursuant to a valid written certification. Such designated individual shall register  
3777 with the Board unless the individual's name listed on the patient's written certification. An individual may, on  
3778 the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's  
3779 written certification upon the patient's request. The Board may set a limit on the number of patients for whom  
3780 any individual is authorized to act as a registered agent.

3781 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a  
3782 designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or  
3783 registered by a health regulatory board and who is authorized to possess, distribute, or administer medications

3784 may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the  
3785 patient or resident and may assist in the administration of the cannabis product to the patient or resident as  
3786 necessary.

3787 H. Information obtained under the patient certification or agent registration process shall be confidential  
3788 and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700  
3789 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the  
3790 House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement  
3791 for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii)  
3792 licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug  
3793 therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or  
3794 cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only  
3795 with respect to information related to such patient.

3796 **§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

3797 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first  
3798 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the  
3799 Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's  
3800 dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general  
3801 requirements for such application. *Effective November 1, 2026, no previously issued permit shall remain*  
3802 *valid unless the pharmaceutical processor has received dual-use approval from the Board pursuant to*  
3803 *§ 4.1-1602.1.*

3804 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of  
3805 permits that the Board may issue or renew in any year is limited to one *permit in each health service area*  
3806 *established by the Board of Health, which shall govern the operations of the* pharmaceutical processor and up  
3807 to five cannabis dispensing facilities ~~for~~ *in each health service area established by the Board of Health.*  
3808 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and  
3809 cannabis dispensing facility. *In addition to the provisions of this chapter, unless otherwise provided by law or*  
3810 *regulation, a pharmaceutical processor shall hold the privileges of and be subject to all laws and regulations*  
3811 *applicable to a marijuana cultivation facility, marijuana processing facility, and retail marijuana store and a*  
3812 *cannabis dispensing facility shall hold the privileges of and be subject to all laws and regulations applicable*  
3813 *to a retail marijuana store.*

3814 C. The Board shall adopt regulations establishing health, safety, and security requirements for

3815 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for  
3816 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment  
3817 and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently  
3818 than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis  
3819 products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in  
3820 § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide  
3821 that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol,  
3822 except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of  
3823 usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors,  
3824 between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing  
3825 facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and  
3826 hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the  
3827 laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert  
3828 product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical  
3829 processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a  
3830 written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into  
3831 cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical  
3832 processor's products and operations, which shall not limit the pharmaceutical processor from the provision of  
3833 educational material to practitioners who issue written certifications and patients. The Board shall also adopt  
3834 regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely  
3835 cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste,  
3836 and (c) a process for registering cannabis products.

3837 D. The Board shall require pharmaceutical processors, after processing and before dispensing any  
3838 cannabis products, to make a sample available from each batch of cannabis product for testing by an  
3839 independent laboratory that is located in *the* Commonwealth and meets Board requirements. A valid sample  
3840 size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,  
3841 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing  
3842 or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis  
3843 oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from  
3844 each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for  
3845 analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total

3846 tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and  
3847 microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis  
3848 industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails  
3849 any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or  
3850 cannabis oil shall be subject to laboratory testing, which shall not be more stringent than initial testing prior  
3851 to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be  
3852 packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered  
3853 usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any  
3854 cannabis product with an expiration date assigned by the pharmaceutical processor of 12 months or less from  
3855 the date of the cannabis product registration approval. Stability testing required for assignment of an  
3856 expiration date longer than 12 months shall be limited to microbial testing, on a pass/fail basis, and potency  
3857 testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an  
3858 expiration date longer than 12 months from the date of the cannabis product registration approval unless  
3859 supported by stability testing.

3860 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances  
3861 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the  
3862 Board of Pharmacy in regulation.

3863 F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the  
3864 personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis  
3865 dispensing facility unless all cannabis products are contained in a vault or other similar container to which  
3866 only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are  
3867 adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have  
3868 concurrent responsibility for preventing diversion from the dispensing area.

3869 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and  
3870 production areas of the pharmaceutical processor and shall provide such information to the Board. The Board  
3871 shall direct all communications related to enforcement of requirements related to cultivation and production  
3872 of cannabis and cannabis products by the pharmaceutical processor to such designated person.

3873 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis  
3874 dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be  
3875 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau

3876 of Investigation for the purpose of obtaining criminal history record information regarding the applicant's  
3877 material owners. The cost of fingerprinting and the criminal history record search shall be paid by the  
3878 applicant. The Central Criminal Records Exchange shall forward the results of the criminal history  
3879 background check to the Board or its designee, which shall be a governmental entity.

3880 H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees  
3881 and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery  
3882 agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

3883 I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ  
3884 individuals who may have less than one year of experience (i) to perform cultivation-related duties under the  
3885 supervision of an individual who has received a degree in a field related to the cultivation of plants or a  
3886 certification recognized by the Board or who has at least one year of experience cultivating plants, (ii) to  
3887 perform extraction-related duties under the supervision of an individual who has a degree in chemistry or  
3888 pharmacology or at least one year of experience extracting chemicals from plants, (iii) to perform duties at  
3889 the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician,  
3890 and (iv) to serve as pharmacy technician trainees.

3891 J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five  
3892 cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing  
3893 of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor  
3894 permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the  
3895 pharmaceutical processor may cultivate cannabis plants. *For purposes of a pharmaceutical processor's*  
3896 *operations as a marijuana cultivation facility pursuant to § 4.1-800, the pharmaceutical processor shall only*  
3897 *cultivate cannabis indoors with a canopy that does not exceed a total of 70,000 square feet, regardless of*  
3898 *whether such canopy is utilized on the premises of the pharmaceutical processor or collectively on the*  
3899 *premises of the pharmaceutical processor and the additional cultivation location. Each cannabis dispensing*  
3900 *facility and the additional cultivation location shall be located within the same health service area as the*  
3901 *pharmaceutical processor.* Each cannabis dispensing facility and the additional cultivation location shall be  
3902 located within the same health service area as the pharmaceutical processor.

3903 K. No person who has been convicted of a felony under the laws of the Commonwealth or another  
3904 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or  
3905 cannabis dispensing facility.



3906 L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment  
3907 drug screening and regular, ongoing, random drug screening of employees.

3908 M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility  
3909 shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees  
3910 who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than  
3911 six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's  
3912 dispensing area or cannabis dispensing facility.

3913 N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor  
3914 industrial hemp extracts that (i) are grown and processed in Virginia in compliance with state or federal law,  
3915 and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract"  
3916 in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A  
3917 pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis  
3918 product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the  
3919 same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by  
3920 a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products.  
3921 The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical  
3922 processor before industrial hemp extracts may be acquired.

3923 O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily  
3924 ~~discernable~~ *discernible*, and uniform among different products and brands. Pharmaceutical processors shall  
3925 affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the  
3926 pharmaceutical processor's website, that includes:

- 3927 1. The product name;
- 3928 2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives,  
3929 flavorings, sweeteners, and carrier oils;
- 3930 3. The total ~~percentage and~~ milligrams of tetrahydrocannabinol and cannabidiol included in the *edible*  
3931 *cannabis product or topical cannabis product and*, the number of milligrams of tetrahydrocannabinol and  
3932 cannabidiol in each serving *of the edible cannabis product or topical cannabis product, and the total*  
3933 *percentage of tetrahydrocannabinol and cannabidiol included in the inhalable cannabis product*;
- 3934 4. The amount of product that constitutes a single serving and the amount recommended for use by the  
3935 practitioner or dispensing pharmacist;

3936 5. Information regarding the product's purpose and detailed usage directions;

3937 6. Child and safety warnings in a conspicuous font; and

3938 7. Such other information required by the Board.

3939 P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of  
3940 cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no  
3941 tetrahydrocannabinol.

3942 Q. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000  
3943 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any  
3944 regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall  
3945 publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the  
3946 Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the  
3947 proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone  
3948 number of the agency contact person responsible for receiving public comments. Such notice shall be made at  
3949 least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The  
3950 legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final  
3951 adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public  
3952 comments received for any regulation adopted pursuant to this section.

3953 **§ 4.1-1602.1. Dual-use privileges.**

3954 *Upon application to the Board, payment of a one-time conversion fee by a pharmaceutical processor, and*  
3955 *verification by the Board that the applicable requirements are met, a pharmaceutical processor and its*  
3956 *cannabis dispensing facilities may exercise dual-use privileges as set forth in this chapter.*

3957 **§ 4.1-1603. Dispensing cannabis products; report.**

3958 A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products  
3959 only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued  
3960 a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a  
3961 vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or  
3962 temporarily resides in Virginia. *A pharmaceutical processor or cannabis dispensing facility may dispense or*  
3963 *deliver cannabis products to such patient or such patient's registered agent, parent, or legal guardian at any*  
3964 *residence, including a temporary residence, or business. Notwithstanding the foregoing, a pharmaceutical*  
3965 *processor or cannabis dispensing facility shall not dispense or deliver cannabis products to (a) any military*  
3966 *base, child day center, school, or correctional facility; (b) the State Capitol; (c) marine terminal under the*

3967 *supervision of the Virginia Port Authority; or (d) any public gathering places, including sporting events,*  
3968 *festivals, fairs, races, concerts, and terminals of public transportation companies.* A companion may  
3969 accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior  
3970 to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy  
3971 technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and  
3972 maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written  
3973 certification that provides an exact image of the document that is clearly legible; shall view, in person or by  
3974 audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian;  
3975 and shall verify current board registration of the corresponding registered agent if applicable. Thereafter, an  
3976 initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated  
3977 caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written  
3978 certification, an employee or delivery agent shall view a current photo identification of the patient, registered  
3979 agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable.  
3980 No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as  
3981 determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period.  
3982 A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a  
3983 cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis  
3984 dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four  
3985 ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is  
3986 dispensed. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a  
3987 pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the  
3988 patient and adjust the amount dispensed accordingly.

3989 B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products  
3990 produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that  
3991 have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a  
3992 registered industrial hemp handler or processor pursuant to § 4.1-1602. A pharmaceutical processor may  
3993 begin cultivation upon being issued a permit by the Board.

3994 C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General  
3995 Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical  
3996 processors and cannabis dispensing facilities issued a permit by the Board.

3997 D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15

3998 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis  
3999 product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such  
4000 concentration in any cannabis product on site is within such range. A pharmaceutical processor producing  
4001 cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date  
4002 of longer than 12 months.

4003 *E. All transportation or delivery of usable cannabis, botanical cannabis, cannabis oil, or cannabis*  
4004 *products, whether by an employee or delivery agent, shall comply with the provisions of this subtitle and*  
4005 *Board regulations, including those related to background checks, proof of identification, vehicle security,*  
4006 *GPS tracking, secure communications, and recordkeeping. The Board may suspend or revoke the privileges*  
4007 *of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products*  
4008 *for failure of such employee or delivery agent to comply with the provisions of this subtitle or Board*  
4009 *regulations.*

4010 **§ 4.1-1604. Criminal liability; exceptions.**

4011 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted  
4012 under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248; ~~18.2-248.1~~, or 18.2-250 for possession or manufacture of  
4013 marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty,  
4014 denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such  
4015 agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis  
4016 products in accordance with the provisions of this chapter and Board regulations or (ii) possessed,  
4017 manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis  
4018 industry standards in accordance with the provisions of this chapter and Board regulations.

4019 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**  
4020 **operation.**

4021 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
4022 waters of ~~this the~~ Commonwealth, while under the influence of intoxicating liquor or of any narcotic *or*  
4023 *marijuana* or any habit-forming drugs ~~shall be~~ *is* guilty of a felony and shall be confined in a state  
4024 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying  
4025 the case, be confined in jail not exceeding ~~twelve~~ *12* months and fined not exceeding \$500, or both such fine  
4026 and imprisonment.

4027 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
4028 waters of ~~this the~~ Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or

4029 safety of others, or without due caution and circumspection and in a manner so as to endanger any person or  
4030 property, ~~shall be~~ is guilty of a misdemeanor.

4031     § 6.2-108. *Financial services for licensed marijuana establishments.*

4032     A. *As used in this section:*

4033         *"Business associate" means a person that provides goods or services to, or receives goods or services*  
4034 *from, a licensed marijuana establishment in connection with lawful marijuana-related activities.*

4035         *"Financial service" includes deposit accounts, loans, lines of credit, payment processing, funds*  
4036 *transmission, cash management services, and other services customarily provided by a bank or credit union*  
4037 *in the ordinary course of business.*

4038         *"Licensed" and "marijuana establishment" have the same meanings as provided in § 4.1-600.*

4039     B. *A bank or credit union may provide financial services to a licensed marijuana establishment or its*  
4040 *business associates, subject to applicable state and federal law.*

4041     C. *A bank or credit union that provides a financial service to a licensed marijuana establishment, and the*  
4042 *officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state*  
4043 *law or regulation solely for providing such a financial service or for further investing any income derived*  
4044 *from such a financial service.*

4045     D. *Nothing in this section shall require a bank or credit union to provide financial services to a licensed*  
4046 *marijuana establishment.*

4047     E. *No agency or political subdivision of the Commonwealth shall penalize, prohibit, or take adverse*  
4048 *supervisory or regulatory action against a bank or credit union solely because the bank or credit union*  
4049 *provides financial services to a licensed marijuana establishment.*

4050     F. *A bank or credit union, and its officers, directors, and employees, shall not be subject to criminal*  
4051 *prosecution, civil liability, or administrative sanction under the laws of the Commonwealth solely for*  
4052 *providing financial services to a licensed marijuana establishment in compliance with this section.*

4053     G. *The legal interest of a bank or credit union in collateral for a loan or other financial service provided*  
4054 *to a licensed marijuana establishment shall not be subject to civil or criminal forfeiture under the laws of the*  
4055 *Commonwealth solely because the collateral is associated with a licensed marijuana establishment.*

4056     H. *Proceeds derived from a transaction involving a licensed marijuana establishment shall not be*  
4057 *considered proceeds of unlawful activity under the laws of the Commonwealth solely because the transaction*  
4058 *involves a licensed marijuana establishment.*

4059     I. *The protections provided by this section apply where a bank or credit union has exercised reasonable*

4060 *due diligence to confirm that the marijuana establishment is duly licensed and operating in compliance with*  
4061 *applicable Virginia law.*

4062 *J. The protections of this section extend to financial services provided to a business associate of a licensed*  
4063 *marijuana establishment where such services are provided in connection with lawful marijuana-related*  
4064 *activities.*

4065 **§ 9.1-1101. Powers and duties of the Department.**

4066 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of  
4067 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and  
4068 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant  
4069 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any  
4070 private police department that has been designated as a criminal justice agency by the Department of  
4071 Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The  
4072 Department shall provide such services to any federal investigatory agency within available resources.

4073 B. The Department shall:

4074 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth  
4075 and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as  
4076 needed;

4077 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of  
4078 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

4079 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six  
4080 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

4081 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*  
4082 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.*  
4083 *The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider*  
4084 *the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the*  
4085 *total available THC derived from the sum of the THC and THC-A content.*

4086 C. The Department shall have the power and duty to:

4087 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes  
4088 of this chapter;

4089 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its

4090 duties and execution of its powers under this chapter including, but not limited to, contracts with the United  
4091 States, units of general local government or combinations thereof in Virginia or other states, and with  
4092 agencies and departments of the Commonwealth; and

4093 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

4094 D. The Director may appoint and employ a deputy director and such other personnel as are needed to  
4095 carry out the duties and responsibilities conferred by this chapter.

4096 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**  
4097 **prepayment of local ordinances.**

4098 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,  
4099 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions  
4100 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated  
4101 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local  
4102 ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is  
4103 listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance  
4104 whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2  
4105 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in  
4106 § 46.2-878.3.

4107 Such infractions shall not include:

4108 1. Indictable offenses;

4109 2. [Repealed.]

4110 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic  
4111 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,  
4112 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his  
4113 custody or control;

4114 4. Reckless driving;

4115 5. Leaving the scene of an accident;

4116 6. Driving while under suspension or revocation of driving privileges;

4117 7. Driving without being licensed to drive.

4118 8. [Repealed.]

4119 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a

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

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

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

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

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing



4149 of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the  
4150 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated  
4151 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and  
4152 motions relating to the establishment, modification, or enforcement of support on forms approved by the  
4153 Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of  
4154 social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of  
4155 Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish  
4156 paternity, motions to establish or modify support, motions to amend or review an order, and motions for a  
4157 rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except  
4158 petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of  
4159 supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the  
4160 local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of  
4161 Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
4162 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving  
4163 child support services or public assistance. No individual who is receiving support services or public  
4164 assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for  
4165 support of a child. If the petitioner is seeking or receiving child support services or public assistance, the  
4166 clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the  
4167 court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,  
4168 the intake officer shall provide the petitioner information on the possible availability of medical assistance  
4169 through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored  
4170 coverage through the Department of Medical Assistance Services.

4171 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake  
4172 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and  
4173 audio communication is used, an intake officer may exercise all powers conferred by law. All  
4174 communications and proceedings shall be conducted in the same manner as if the appearance were in person,  
4175 and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed  
4176 by the officer or person to whom sent, and returned in the same manner, and with the same force, effect,  
4177 authority, and liability as an original document. All signatures thereon shall be treated as original signatures.  
4178 Any two-way electronic video and audio communication system used for an appearance shall meet the  
4179 standards as set forth in subsection B of § 19.2-3.1.

4180 When the court service unit of any court receives a complaint alleging facts which may be sufficient to  
4181 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed  
4182 informally to make such adjustment as is practicable without the filing of a petition or may authorize a  
4183 petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause  
4184 for the issuance of the petition.

4185 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of  
4186 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or  
4187 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would  
4188 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony  
4189 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a  
4190 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded  
4191 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if  
4192 committed by an adult.

4193 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the  
4194 attendance officer has provided documentation to the intake officer that the relevant school division has  
4195 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The  
4196 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided  
4197 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of  
4198 supervision on more than two occasions for failure to comply with compulsory school attendance as provided  
4199 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three  
4200 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person  
4201 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may  
4202 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco  
4203 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and  
4204 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided  
4205 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of  
4206 developing a truancy plan using an interagency interdisciplinary team approach. The team may include  
4207 qualified personnel who are reasonably available from the appropriate department of social services,  
4208 community services board, local school division, court service unit, and other appropriate and available  
4209 public and private agencies and may be the family assessment and planning team established pursuant to  
4210 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or

4211 the truancy program, then the intake officer shall file the petition.

4212 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in  
4213 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the  
4214 juvenile, which may include restitution, the performance of community service, or on a complaint alleging  
4215 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor  
4216 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth  
4217 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the  
4218 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake  
4219 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,  
4220 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint  
4221 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to  
4222 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice  
4223 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice  
4224 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's  
4225 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

4226 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or  
4227 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,  
4228 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,  
4229 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or  
4230 other services which are required by law, (iv) family abuse has occurred and a protective order is being  
4231 sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has  
4232 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either  
4233 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake  
4234 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of  
4235 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the  
4236 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be  
4237 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.  
4238 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,  
4239 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of  
4240 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective  
4241 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written

4242 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders  
4243 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

4244 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be  
4245 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need  
4246 of supervision have utilized or attempted to utilize treatment and services available in the community and  
4247 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer  
4248 determines that the parties have not attempted to utilize available treatment or services or have not exhausted  
4249 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to  
4250 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or  
4251 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a  
4252 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

4253 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult  
4254 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a  
4255 finding that no probable cause exists, the complainant shall be notified in writing at that time of the  
4256 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall  
4257 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that  
4258 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant  
4259 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy  
4260 of the written notification upon application to the magistrate. If a magistrate determines that probable cause  
4261 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant  
4262 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition  
4263 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or  
4264 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant  
4265 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a  
4266 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his  
4267 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by  
4268 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a  
4269 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final  
4270 and the complainant shall not have a right to apply to a magistrate for a warrant.

4271 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake  
4272 officer shall accept and file a petition founded upon the warrant.

4273 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which  
4274 alleges facts of an offense which would be a felony if committed by an adult.

4275 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report  
4276 with the division superintendent of the school division in which any student who is the subject of a petition  
4277 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a  
4278 crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to  
4279 be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the  
4280 petition and the nature of the offense, if the violation involves:

4281 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
4282 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

4283 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

4284 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
4285 18.2;

4286 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

4287 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
4288 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

4289 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11 (§ 18.2-247 4.1-1100 et~~  
4290 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~

4291 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

4292 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

4293 9. Robbery pursuant to § 18.2-58;

4294 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

4295 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

4296 12. An act of violence by a mob pursuant to § 18.2-42.1;

4297 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

4298 14. A threat pursuant to § 18.2-60.

4299 The failure to provide information regarding the school in which the student who is the subject of the  
4300 petition may be enrolled shall not be grounds for refusing to file a petition.

4301 The information provided to a division superintendent pursuant to this section may be disclosed only as  
4302 provided in § 16.1-305.2.

4303 H. The filing of a petition shall not be necessary:

4304 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other  
4305 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any  
4306 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the  
4307 court may proceed on a summons issued by the officer investigating the violation in the same manner as  
4308 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene  
4309 of the accident or at any other location where a juvenile who is involved in such an accident may be located,  
4310 proceed on a summons in lieu of filing a petition.

4311 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of  
4312 § 16.1-241.

4313 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any  
4314 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal  
4315 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal  
4316 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal  
4317 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner  
4318 provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of  
4319 § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or  
4320 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or  
4321 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize  
4322 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the  
4323 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.  
4324 When a violation of § 4.1-305 *or 4.1-1105* is charged by summons, the juvenile shall be entitled to have the  
4325 charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that  
4326 such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such  
4327 summons alleging a violation of § 4.1-305 *or 4.1-1105* is served, the officer shall also serve upon the juvenile  
4328 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and  
4329 make return of such service to the court. If the officer fails to make such service or return, the court shall  
4330 dismiss the summons without prejudice.

4331 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would  
4332 be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer  
4333 proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same  
4334 manner as provided by law for adults provided that notice of the summons to appear is mailed by the

investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

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

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

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

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

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

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of

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



4397 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and  
4398 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving  
4399 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16  
4400 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not  
4401 less than 30 days following the date he reaches the age of 16 and three months.

4402 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a  
4403 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability  
4404 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three  
4405 months, as may be appropriate.

4406 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of  
4407 § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until  
4408 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or  
4409 until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

4410 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as  
4411 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the  
4412 physical custody of the court during any period of license denial.

4413 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which  
4414 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was  
4415 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.  
4416 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record  
4417 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other  
4418 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding  
4419 results in an adjudication of guilt pursuant to subsection F.

4420 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's  
4421 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the  
4422 order of denial under subsection E.

4423 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of  
4424 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol  
4425 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set  
4426 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)

4427 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such  
4428 terms and conditions as the court may set forth.

4429 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted  
4430 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the  
4431 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection  
4432 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to  
4433 and from home and school when school-provided transportation is available and no restricted license shall be  
4434 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,  
4435 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding  
4436 by the court of failure to comply with school attendance and meeting requirements as provided in subsection  
4437 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection  
4438 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be  
4439 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information  
4440 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under  
4441 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any  
4442 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

4443 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any  
4444 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.  
4445 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one  
4446 year after its issuance.

4447 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,  
4448 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has  
4449 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if  
4450 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge  
4451 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be  
4452 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying  
4453 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in  
4454 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)  
4455 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of  
4456 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second  
4457 violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this

subsection but shall be disposed of under § 16.1-278.8.

**§ 18.2-46.1. Definitions.**

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

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

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

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

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

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

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

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

4489 imitate; or

4490 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or  
4491 depressant of the central nervous system and which is not commonly used or recognized for use in that  
4492 particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,  
4493 promoted, or sold as permitted by the U.S. Food and Drug Administration.

4494 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
4495 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
4496 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes  
4497 rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the  
4498 drug and its appearance in overall finished dosage form, promotional materials or representations, oral or  
4499 written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the  
4500 public.

4501 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,  
4502 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or  
4503 preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana"  
4504 does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the  
4505 seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus  
4506 *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to  
4507 subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a  
4508 person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.  
4509 Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in  
4510 § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such  
4511 isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the  
4512 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

4513 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,  
4514 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade  
4515 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,  
4516 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so  
4517 manufacture, process, pack or distribute such drug.

4518 F. E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol,

4519 including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of  
4520 isomers is possible within the specific chemical designation and any preparation, mixture, or substance  
4521 containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this  
4522 definition, "isomer" means the optical, position, and geometric isomers.

4523 ~~G. F.~~ The term "total tetrahydrocannabinol" means the sum, after the application of any necessary  
4524 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of  
4525 tetrahydrocannabinolic acid.

4526 ~~H. G.~~ The Department of Forensic Science shall determine the proper methods for detecting the  
4527 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100 et  
4528 seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or other  
4529 equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into  
4530 tetrahydrocannabinol.

4531 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture,**  
4532 **sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;**  
4533 **penalties.**

4534 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ *is* unlawful for any  
4535 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a  
4536 controlled substance or an imitation controlled substance.

4537 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation  
4538 controlled substance, the court may consider, in addition to all other relevant evidence, whether any  
4539 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever  
4540 included an exchange of or a demand for money or other property as consideration, and, if so, whether the  
4541 amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet  
4542 or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule,  
4543 tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter  
4544 substances of like chemical composition sell.

4545 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled  
4546 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more  
4547 than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is  
4548 alleged in the warrant, indictment, or information that the person has been before convicted of such an

4549 offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if  
4550 committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in  
4551 the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing  
4552 the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of  
4553 which shall be a mandatory minimum term of imprisonment to be served consecutively with any other  
4554 sentence, and he shall be fined not more than \$500,000.

4555 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the  
4556 warrant, indictment or information that he has been before convicted of two or more such offenses or of  
4557 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the  
4558 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
4559 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10  
4560 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
4561 with any other sentence, and he shall be fined not more than \$500,000.

4562 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,  
4563 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and  
4564 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment  
4565 to be served consecutively with any other sentence:

- 4566 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;  
4567 2. 500 grams or more of a mixture or substance containing a detectable amount of:  
4568 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4569 derivatives of ecgonine or their salts have been removed;  
4570 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
4571 c. Cocaine base;  
4572 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
4573 e. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to  
4574 in subdivisions 2a through 2d; or  
4575 3. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of  
4576 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its  
4577 isomers.

4578 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not  
4579 be applicable if the court finds that:

4580 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

4581 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous  
4582 weapon in connection with the offense or induce another participant in the offense to do so;

4583 c. The offense did not result in death or serious bodily injury to any person;

4584 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not  
4585 engaged in a continuing criminal enterprise as defined in subsection I; and

4586 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the  
4587 Commonwealth all information and evidence the person has concerning the offense or offenses that were part  
4588 of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or  
4589 useful other information to provide or that the Commonwealth already is aware of the information shall not  
4590 preclude a determination by the court that the defendant has complied with this requirement.

4591 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,  
4592 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable  
4593 amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned  
4594 for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of  
4595 such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be  
4596 sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than  
4597 \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged  
4598 in the warrant, indictment, or information that he has been previously convicted of two or more such offenses  
4599 or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in  
4600 the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
4601 indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10  
4602 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
4603 with any other sentence and he shall be fined not more than \$500,000.

4604 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be  
4605 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
4606 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine

4607 production. This restitution shall include the person's or his estate's estimated or actual expenses associated  
4608 with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or  
4609 otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or  
4610 in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup  
4611 Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup,  
4612 removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum  
4613 of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or  
4614 repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant  
4615 to § 32.1-11.7.

4616 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled  
4617 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate  
4618 in a community correctional facility, local correctional facility or state correctional facility as defined in  
4619 § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any  
4620 consideration received or expected nor to induce the recipient or intended recipient of the controlled  
4621 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty of a  
4622 Class 5 felony.

4623 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription  
4624 of a person authorized under this article to issue the same, which prescription has not been received in writing  
4625 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the  
4626 pharmacist within one week of the time of filling the same, or if such violation consists of a request by such  
4627 authorized person for the filling by a pharmacist of a prescription which has not been received in writing by  
4628 the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the  
4629 pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

4630 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III  
4631 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ is  
4632 guilty of a Class 5 felony.

4633 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV  
4634 ~~shall be~~ is guilty of a Class 6 felony.

4635 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a  
4636 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,  
4637 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate



4638 in a community correctional facility, local correctional facility or state correctional facility as defined in  
4639 § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any  
4640 consideration received or expected nor to induce the recipient or intended recipient of the controlled  
4641 substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1  
4642 misdemeanor.

4643 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or  
4644 Schedule VI or an imitation controlled substance ~~which~~ *that* imitates a controlled substance classified in  
4645 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

4646 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~ *that*  
4647 imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In  
4648 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the  
4649 defendant believed the imitation controlled substance to actually be a controlled substance.

4650 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,  
4651 give or distribute the following:

4652 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

4653 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

4654 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4655 derivatives of ecgonine or their salts have been removed;

4656 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4657 c. Cocaine base;

4658 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4659 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
4660 referred to in subdivisions a through d; *or*

4661 3. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~

4662 4. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more  
4663 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of  
4664 its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment  
4665 for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum  
4666 sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an  
4667 offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of  
4668 violence or possess a firearm or other dangerous weapon in connection with the offense or induce another

4669 participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any  
4670 person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was  
4671 not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later  
4672 than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all  
4673 information and evidence the person has concerning the offense or offenses that were part of the same course  
4674 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other  
4675 information to provide or that the Commonwealth already is aware of the information shall not preclude a  
4676 determination by the court that the defendant has complied with this requirement.

4677 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of  
4678 a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000  
4679 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,  
4680 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,  
4681 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,  
4682 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any  
4683 12-month period of its existence:

4684 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable  
4685 amount of heroin;

4686 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable  
4687 amount of:

4688 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4689 derivatives of ecgonine or their salts have been removed;

4690 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4691 c. Cocaine base;

4692 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4693 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
4694 referred to in subdivisions a through d; *or*

4695 3. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~  
4696 ~~amount of marijuana; or~~

4697 4. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its  
4698 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable  
4699 amount of methamphetamine, its salts, isomers, or salts of its isomers.

4700 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
4701 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

4702 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of  
4703 a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any  
4704 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or  
4705 ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or  
4706 (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to  
4707 manufacture, sell, give or distribute the following during any 12-month period of its existence:

4708 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

4709 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

4710 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4711 derivatives of ecgonine or their salts have been removed;

4712 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4713 c. Cocaine base;

4714 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4715 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
4716 referred to in subdivisions a through d; *or*

4717 3. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

4718 4. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
4719 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
4720 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and  
4721 imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be  
4722 made to run consecutively with any other sentence. However, the court may impose a mandatory minimum  
4723 sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement  
4724 authorities.

4725 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any  
4726 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a  
4727 continuing series of violations of this section which are undertaken by such person in concert with five or  
4728 more other persons with respect to whom such person occupies a position of organizer, a supervisory  
4729 position, or any other position of management, and from which such person obtains substantial income or  
4730 resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance

classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

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

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

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

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

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

Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, ~~with the exception of any misdemeanor conviction for possession of marijuana~~, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, ~~except a dismissal of a misdemeanor offense for possession of marijuana~~, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,

4762 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of  
4763 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon  
4764 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether  
4765 the clerk of court has been provided with the fingerprint identification information or fingerprints of the  
4766 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints  
4767 and photograph of the person be taken by a law-enforcement officer.

4768 As a term or condition, the court shall require the accused to undergo a substance abuse assessment  
4769 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or  
4770 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based  
4771 upon consideration of the substance abuse assessment. The program or services may be located in the judicial  
4772 district in which the charge is brought or in any other judicial district as the court may provide. The services  
4773 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental  
4774 Services, by a similar program which is made available through the Department of Corrections, (ii) a local  
4775 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program  
4776 certified by the Commission on VASAP.

4777 The court shall require the person entering such program under the provisions of this section to pay all or  
4778 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,  
4779 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

4780 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or  
4781 education program or services, (b) to remain drug and alcohol free during the period of probation and submit  
4782 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and  
4783 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a  
4784 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a  
4785 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel  
4786 of any program or agency approved by the supervising probation agency.

4787 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
4788 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of  
4789 court has been provided with the fingerprint identification information or fingerprints of such person, the  
4790 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this  
4791 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section

4792 in subsequent proceedings.

4793 Notwithstanding any other provision of this section, whenever a court places an individual on probation  
4794 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of  
4795 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has  
4796 had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

4797 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual**  
4798 **violence.**

4799 A. For purposes of this section:

4800 "Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws  
4801 pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

4802 "Overdose" means a life-threatening condition resulting from the consumption or use of a controlled  
4803 substance, alcohol, or any combination of such substances.

4804 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
4805 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
4806 pursuant to § ~~4.1-1105.1~~ 4.1-1105, involuntary manslaughter pursuant to § 18.2-36.3, possession of a  
4807 controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of  
4808 controlled paraphernalia pursuant to § 54.1-3466 if:

4809 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is  
4810 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;  
4811 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical  
4812 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in  
4813 § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as  
4814 defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or  
4815 assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid  
4816 antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or  
4817 obtains emergency medical attention in accordance with this subdivision;

4818 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the  
4819 person requiring emergency medical attention has been transported until a law-enforcement officer responds  
4820 to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the  
4821 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

4822 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the  
4823 overdose; and

4824 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
4825 the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

4826 C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
4827 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
4828 pursuant to § ~~4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication  
4829 in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

4830 1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from  
4831 emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in  
4832 § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual  
4833 violence committed against himself or another individual;

4834 2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act  
4835 of sexual violence; and

4836 3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
4837 the individual seeking or obtaining medical attention, rendering care or assistance, or reporting to law  
4838 enforcement.

4839 This subsection shall not apply to an individual who is alleged to have committed the act of sexual  
4840 violence.

4841 D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical  
4842 attention for himself or another individual, to a person experiencing an overdose or who has experienced an  
4843 act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a  
4844 person who renders emergency care or assistance to an individual experiencing an overdose or who has  
4845 experienced an act of sexual violence while another person seeks or obtains emergency medical attention  
4846 during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

4847 E. This section does not establish protection from arrest or prosecution for any individual or offense other  
4848 than those listed in subsection B or C. However, any individual immune to arrest or prosecution under this  
4849 section shall not have his bail, probation, furlough, supervised release, suspended sentence, or parole revoked  
4850 for the behavior immune from arrest or prosecution under the provisions of this section.

4851 F. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
4852 determined that the person arrested was immune from prosecution under this section.

4853 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

4854 No school nurse employed by a local school board, person employed by a local health department who is  
4855 assigned to the public school pursuant to an agreement between the local health department and the school  
4856 board, or other person employed by or contracted with a local school board to deliver health-related services  
4857 shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, 18.2-250, or  
4858 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis  
4859 oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid  
4860 written certification for the use of cannabis oil in accordance with § 4.1-1601.

4861 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**  
4862 **facilities; hospice and hospice facilities; assisted living facilities.**

4863 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
4864 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under  
4865 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the possession or  
4866 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient  
4867 or resident who has been issued a valid written certification for the use of cannabis oil in accordance with  
4868 § 4.1-1601.

4869 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**  
4870 **Department of Agriculture and Consumer Services, Department of Law employees.**

4871 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
4872 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a  
4873 federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing  
4874 required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,  
4875 ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for  
4876 storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by  
4877 the Board of Pharmacy of Directors of the Virginia Cannabis Control Authority and the Board of Agriculture  
4878 and Consumer Services.

4879 B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law  
4880 shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § ~~18.2-247~~, 18.2-248, 18.2-248.01,  
4881 ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing



4882 tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol  
4883 is necessary in the performance of his duties.

4884     **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,**  
4885 **and treatment or education.**

4886     The trial judge or court trying the case of any person found guilty of a criminal violation of any law  
4887 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical  
4888 substances and like substances shall condition any suspended sentence by first requiring such person to agree  
4889 to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance  
4890 abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by  
4891 the supervising probation agency or by personnel of any program or agency approved by the supervising  
4892 probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed  
4893 as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any  
4894 suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or  
4895 court deems appropriate based upon consideration of the substance abuse assessment. The treatment or  
4896 education shall be provided by a program or agency licensed by the Department of Behavioral Health and  
4897 Developmental Services, by a similar program or services available through the Department of Corrections if  
4898 the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a  
4899 similar program or services available through a local or regional jail, a local community-based probation  
4900 services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on  
4901 VASAP.

4902     **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

4903     A. Whenever any person who has not previously been convicted of any criminal offense under this article  
4904 or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
4905 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such  
4906 an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any  
4907 manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like  
4908 substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to  
4909 § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be  
4910 directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and  
4911 taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to  
4912 undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate

4913 based upon consideration of the substance abuse assessment. The treatment or education shall be provided by  
4914 a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a  
4915 similar program or services available through the Department of Corrections if the court imposes a sentence  
4916 of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services  
4917 available through a local or regional jail, a local community-based probation services agency established  
4918 pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

4919 B. The court trying the case of any person alleged to have committed any criminal offense designated by  
4920 this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the  
4921 commission of the offense was motivated by or closely related to the use of drugs and determined by the  
4922 court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs  
4923 may commit, based upon a consideration of the substance abuse assessment, such person, upon his  
4924 conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of  
4925 Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not  
4926 in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if  
4927 sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury.  
4928 Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and  
4929 the person so committed may be convicted of escape if he leaves the place of commitment without authority.  
4930 A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the  
4931 jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any  
4932 time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a  
4933 certified statement from the director of the treatment facility to the effect that the confined person has  
4934 successfully responded to treatment, the court may release such confined person prior to the termination of  
4935 the period of time for which such person was confined and may suspend the remainder of the term upon such  
4936 conditions as the court may prescribe.

4937 C. The court trying a case in which commission of the criminal offense was related to the defendant's  
4938 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and  
4939 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the  
4940 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons  
4941 with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space  
4942 is available in such facility, for a period of time not in excess of the maximum term of imprisonment

specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

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

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

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

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

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

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

A. It ~~shall be~~ is unlawful for any person to manufacture, sell, or distribute or possess with intent to sell,

4974 give, or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

4975 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary  
4976 school, any institution of higher education, or any clearly marked licensed child day center as defined in  
4977 § 22.1-289.02;

4978 2. Upon public property or any property open to public use within 1,000 feet of the property described in  
4979 subdivision 1;

4980 3. On any school bus as defined in § 46.2-100;

4981 4. Upon a designated school bus stop, or upon either public property or any property open to public use  
4982 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be  
4983 picked up and transported to or are being dropped off from school or a school-sponsored activity;

4984 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated  
4985 recreation or community center facility or any public library; or

4986 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property  
4987 open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the provisions of this  
4988 section if the person possessed the controlled substance; *or* imitation controlled substance; ~~or marijuana~~ on  
4989 the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or  
4990 distribute the controlled substance; *or* imitation controlled substance; ~~or marijuana~~. Nothing in this section  
4991 shall prohibit the authorized distribution of controlled substances.

4992 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the  
4993 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more  
4994 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an  
4995 offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act  
4996 (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum  
4997 term of imprisonment of one year to be served consecutively with any other sentence. However, if such  
4998 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another  
4999 individual and not with intent to profit thereby from any consideration received or expected nor to induce the  
5000 recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or  
5001 dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

5002 C. If a person commits an act violating the provisions of this section, and the same act also violates  
5003 another provision of law that provides for penalties greater than those provided for by this section, then

5004 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or  
5005 the imposition of any penalties provided for thereby.

5006 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

5007 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
5008 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge  
5009 of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is  
5010 frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined  
5011 in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing  
5012 controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of  
5013 controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of  
5014 any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes,  
5015 keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or  
5016 subsequent offense, a Class 6 felony.

5017 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

5018 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
5019 dwelling house, apartment or building or structure of any kind ~~which~~ *that* is (i) substantially altered from its  
5020 original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a  
5021 law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing  
5022 controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a  
5023 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5  
5024 felony.

5025 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,**  
5026 **deceit or forgery.**

5027 A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to  
5028 procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation,  
5029 embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by  
5030 the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

5031 B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in or omit any  
5032 information from, or willfully make a false statement in, any prescription, order, report, record, or other  
5033 document required by ~~Chapter 34~~ *the Drug Control Act* (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

5034 C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a

5035 controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to  
5036 another person.

5037 D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~  
5038 ~~marijuana~~, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,  
5039 physician, dentist, veterinarian, or other authorized person.

5040 E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged  
5041 written order.

5042 F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle  
5043 containing any controlled substance.

5044 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or  
5045 of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such  
5046 drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of  
5047 any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and  
5048 who are acting in the course of their employment; provided that such manufacturer is licensed under the  
5049 provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical  
5050 manufacturer, its agents and duly authorized representatives file with the Board such information as the  
5051 Board may deem appropriate.

5052 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein  
5053 ~~shall be~~ *is* guilty of a Class 6 felony.

5054 Whenever any person who has not previously been convicted of any offense under this article or under  
5055 any statute of the United States or of any state relating to narcotic drugs; ~~marijuana~~, or stimulant, depressant,  
5056 or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense  
5057 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for  
5058 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court  
5059 may place him on probation upon terms and conditions.

5060 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or  
5061 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the  
5062 accused. This program may be located in the judicial circuit in which the charge is brought or in any other  
5063 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by  
5064 the Department of Behavioral Health and Developmental Services. The court shall require the person entering

5065 such program under the provisions of this section to pay all or part of the costs of the program, including the  
5066 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the  
5067 person is determined by the court to be indigent.

5068 As a condition of supervised probation, the court shall require the accused to remain drug free during the  
5069 period of probation and submit to such tests during that period as may be necessary and appropriate to  
5070 determine if the accused is drug free. Such testing may be conducted by the personnel of any screening,  
5071 evaluation, and education program to which the person is referred or by the supervising agency.

5072 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the  
5073 original arresting law-enforcement agency to submit to fingerprinting.

5074 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and  
5075 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find  
5076 the defendant guilty of a Class 1 misdemeanor.

5077 **§ 18.2-265.1. Definition.**

5078 As used in this article, "drug paraphernalia" means all equipment, products, and materials of any kind  
5079 which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for  
5080 use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,  
5081 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,  
5082 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a  
5083 controlled substance. "Drug paraphernalia" includes:

5084 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting  
5085 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be  
5086 derived;

5087 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,  
5088 processing, or preparing ~~marijuana~~ or controlled substances;

5089 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or  
5090 any species of plant ~~which~~ *that* is a controlled substance;

5091 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or  
5092 effectiveness of ~~marijuana~~ or controlled substances, other than drug checking products used to determine the  
5093 presence or concentration of a contaminant that can cause physical harm or death;

5094 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or

5095 controlled substances;

5096 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or  
5097 designed for use in cutting controlled substances;

5098 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in~~  
5099 ~~otherwise cleaning or refining, marijuana;~~

5100 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in  
5101 compounding controlled substances;

5102 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging  
5103 small quantities of ~~marijuana~~ or controlled substances;

5104 10. 9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~  
5105 ~~or~~ controlled substances;

5106 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in  
5107 parenterally injecting controlled substances into the human body;

5108 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing  
5109 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

5110 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
5111 screens, ~~hashish heads~~, or punctured metal bowls;

5112 b. Water pipes;

5113 c. Carburetion tubes and devices;

5114 d. Smoking and carburetion masks;

5115 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that has  
5116 become too small or too short to be held in the hand;

5117 f. Miniature cocaine spoons, and cocaine vials;

5118 g. Chamber pipes;

5119 h. Carburetor pipes;

5120 i. Electric pipes;

5121 j. Air-driven pipes;

5122 k. Chillums;

5123 l. Bongs;

5124 m. Ice pipes or chillers.



**5125      § 18.2-265.2. Evidence to be considered in cases under this article.**

**5126      In** determining whether an object is drug paraphernalia, the court may consider, in addition to all other  
**5127 relevant** evidence, the following:

**5128      1.** Constitutionally admissible statements by the accused concerning the use of the object;

**5129      2.** The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to  
**5130 the** accused;

**5131      3.** Instructions, oral or written, provided with the object concerning its use;

**5132      4.** Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;

**5133      5.** National and local advertising within the actual knowledge of the accused concerning its use;

**5134      6.** The manner in which the object is displayed for sale;

**5135      7.** Whether the accused is a legitimate supplier of like or related items to the community, such as a  
**5136 licensed** distributor or dealer of tobacco products;

**5137      8.** Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business  
**5138 enterprise**;

**5139      9.** The existence and scope of legitimate uses for the object in the community;

**5140      10.** Expert testimony concerning its use or the purpose for which it was designed; *and*

**5141      11.** Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should  
**5142 reasonably** know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in  
**5143 control** of the object, as to a direct violation of this article shall not prevent a finding that the object is  
**5144 intended** for use or designed for use as drug paraphernalia.

**5145      § 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

**5146      A.** Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under  
**5147 circumstances** where one reasonably should know, that it is either designed for use or intended by such  
**5148 person** for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
**5149 produce**, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or  
**5150 otherwise** introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1  
**5151 misdemeanor**.

**5152      B.** Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug  
**5153 paraphernalia** to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6  
**5154 felony**.

5155 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be is~~  
5156 guilty of a Class 1 misdemeanor.

5157 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

5158 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation  
5159 of § 18.2-248 or subdivision (a) 2 or 3 of ~~§ 18.2-248.1~~, has in his possession a firearm or knife and is wearing  
5160 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be is~~ guilty of a Class 4  
5161 felony.

5162 **§ 18.2-308.012. Prohibited conduct.**

5163 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,  
5164 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction  
5165 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under  
5166 the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of  
5167 § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of  
5168 § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall  
5169 revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person  
5170 convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a  
5171 period of five years.

5172 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in  
5173 § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been  
5174 granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic  
5175 beverage while on the premises. A person who carries a concealed handgun onto the premises of such a  
5176 restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in  
5177 this subsection shall apply to a federal, state, or local law-enforcement officer.

5178 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

5179 A. It ~~shall be is~~ unlawful for any person unlawfully in possession of a controlled substance classified in  
5180 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge  
5181 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate  
5182 and distinct felony.

5183 B. It ~~shall be is~~ unlawful for any person unlawfully in possession of a controlled substance classified in  
5184 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent  
5185 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a

5186 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
5187 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to  
5188 run consecutively with, any punishment received for the commission of the primary felony.

5189 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or  
5190 other firearm or display such weapon in a threatening manner while committing or attempting to commit the  
5191 illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a  
5192 controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~  
5193 ~~more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a  
5194 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
5195 term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to  
5196 run consecutively with, any punishment received for the commission of the primary felony.

5197 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

5198 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the  
5199 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to  
5200 § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such  
5201 obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth,  
5202 witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a  
5203 Class 1 misdemeanor.

5204 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
5205 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
5206 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in  
5207 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1  
5208 misdemeanor.

5209 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,  
5210 magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer, lawfully  
5211 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court  
5212 relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of § 18.2-248.1,~~  
5213 ~~or~~ §, 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony  
5214 offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

5215 D. Any person who knowingly and willfully makes any materially false statement or representation to a  
5216 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of

5217 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

5218 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully  
5219 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,  
5220 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement  
5221 officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person  
5222 that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place  
5223 the person under arrest, and (b) a reasonable person who receives such communication knows or should know  
5224 that he is not free to leave.

5225 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

5226 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
5227 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
5228 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
5229 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled  
5230 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is  
5231 guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or  
5232 conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or  
5233 explosives of any nature is guilty of a Class 3 felony.

5234 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

5235 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
5236 **authorizing interception of communications.**

5237 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
5238 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in  
5239 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of  
5240 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by  
5241 the Department of State Police, when such interception may reasonably be expected to provide evidence of  
5242 the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of  
5243 § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony  
5244 violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.),  
5245 Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in  
5246 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing  
5247 offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the

5248 observation or monitoring of the interception by a police department of a county or city, by a sheriff's office,  
5249 or by law-enforcement officers of the United States. Such application shall be made, and such order may be  
5250 granted, in conformity with the provisions of § 19.2-68.

5251 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

5252 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall  
5253 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that  
5254 an offense was committed, is being committed, or will be committed or the person or persons whose  
5255 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,  
5256 maintain an address or a post office box, or are making the communication within the territorial jurisdiction  
5257 of the court.

5258 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the  
5259 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an  
5260 offense was committed, is being committed, or will be committed or the physical location of the oral  
5261 communication to be intercepted is within the territorial jurisdiction of the court.

5262 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire  
5263 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where  
5264 the order is entered, regardless of the physical location or the method by which the communication is  
5265 captured or routed to the monitoring location.

5266 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

5267 A. The following officers shall have the powers of arrest as provided in this section:

5268 1. Members of the State Police force of the Commonwealth;

5269 2. Sheriffs of the various counties and cities, and their deputies;

5270 3. Members of any county police force or any duly constituted police force of any city or town of the  
5271 Commonwealth;

5272 4. The Commissioner, members and employees of the Marine Resources Commission granted the power  
5273 of arrest pursuant to § 28.2-900;

5274 5. Regular conservation police officers appointed pursuant to § 29.1-200;

5275 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty  
5276 officers authorized under § 29.1-205 to make arrests;

5277 7. Conservation officers appointed pursuant to § 10.1-115;

5278 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed

5279 pursuant to § 46.2-217;

5280 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*  
5281 *Authority*;

5282 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

5283 11. Members of the Division of Capitol Police.

5284 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the  
5285 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a  
5286 felony not in his presence.

5287 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of  
5288 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a  
5289 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an  
5290 order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another  
5291 officer, who may obtain a warrant based upon statements made to him by the arresting officer.

5292 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in  
5293 § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such  
5294 accident has been transported, or in the apprehension of any person charged with the theft of any motor  
5295 vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based  
5296 upon personal investigation, including information obtained from eyewitnesses, that a crime has been  
5297 committed by any person then and there present, apprehend such person without a warrant of arrest. For  
5298 purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or  
5299 person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the  
5300 clearing of the highway or to ensure the safety of the motoring public.

5301 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location  
5302 any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft  
5303 or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of  
5304 § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether  
5305 or not the offense was committed in such officer's presence. Such officers may, within three hours of the  
5306 alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to  
5307 suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4,  
5308 whether or not the offense was committed in such officer's presence.

5309 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another

5310 jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile  
5311 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer  
5312 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably  
5313 accurate description of such person wanted and the crime alleged.

5314 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in  
5315 his presence when the officer receives a radio message from his department or other law-enforcement agency  
5316 within the Commonwealth that a warrant or capias for such offense is on file.

5317 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their  
5318 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)  
5319 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a  
5320 firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such  
5321 property is located on premises used for business or commercial purposes, or a similar local ordinance, when  
5322 any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged  
5323 offense. The arresting officer may issue a summons to any person arrested under this section for a  
5324 misdemeanor violation involving shoplifting.

5325 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

5326 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,  
5327 persons for crimes involving:

- 5328 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;  
5329 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;  
5330 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1; and  
5331 ~~(d)~~ 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare, or  
5332 security of the population of a correctional institution.

5333 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

5334 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
5335 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or  
5336 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other  
5337 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an  
5338 equivalent offense in another state, shall file a report of such arrest with the division safety official designated  
5339 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as  
5340 practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this

subsection shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

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

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

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

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

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

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

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

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

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

9. Robbery pursuant to § 18.2-58;

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

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



5372 12. An act of violence by a mob pursuant to § 18.2-42.1; or

5373 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

5374 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

5375 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1  
5376 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer  
5377 shall be permitted to testify as to the results of field tests that have been approved by the Department of  
5378 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act  
5379 (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is  
5380 a controlled substance; *or* imitation controlled substance, *as defined in § 18.2-247*, or marijuana, as defined in  
5381 ~~§ 18.2-247~~ 4.1-600.

5382 B. In any trial for a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer shall be  
5383 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the  
5384 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative  
5385 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue,  
5386 is marijuana provided the defendant has been given written notice of his right to request a full chemical  
5387 analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the  
5388 defendant prior to trial.

5389 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or the  
5390 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by  
5391 motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon  
5392 such motion, the court shall order that the analysis be performed by the Department of Forensic Science in  
5393 accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order the method of custody,  
5394 transfer, and return of evidence submitted for chemical analysis.

5395 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

5396 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
5397 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the  
5398 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an  
5399 act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any  
5400 violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2,  
5401 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially  
5402 similar offense in any other jurisdiction, which offense would be a felony if committed in the

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

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

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2*: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with intent to distribute marijuana~~ in violation of subdivisions (a)(2), (a)(3) and (c) of ~~§ 18.2-248.1~~ § 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of ~~§ 18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

5434 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter  
5435 22.1 (§ 19.2-386.1 et seq.).

5436 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

5437 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful  
5438 possession of which is not established or the title to which cannot be ascertained, which have come into the  
5439 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et  
5440 seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

5441 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,  
5442 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such  
5443 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such  
5444 police department or sheriff's office for research and training purposes and for destruction pursuant to  
5445 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of  
5446 Pharmacy once these purposes have been fulfilled.

5447 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such  
5448 substances or paraphernalia, which order shall state the existence and nature of the substance or  
5449 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance  
5450 or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the  
5451 court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be  
5452 given to a person or entity that makes a showing to the court of sufficient need for the property and an ability  
5453 to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and  
5454 manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the  
5455 order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or  
5456 paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event  
5457 a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such  
5458 substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement  
5459 officer of the agency or his designee may, with the written consent of the appropriate attorney for the  
5460 Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of  
5461 the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the  
5462 chief law-enforcement officer by the officer to whom the order is directed.

5463 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*  
5464 (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as

5465 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

5466 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any  
5467 law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or  
5468 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation  
5469 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting  
5470 agency's exceeding the limits allowed by this subsection.

5471 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or  
5472 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of  
5473 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)  
5474 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training  
5475 purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement  
5476 officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the  
5477 substances that were used for research and training pursuant to a court order in the immediately preceding  
5478 fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under  
5479 oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

5480 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

5481 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with  
5482 any prosecution or investigation under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Chapter 7 (§ 18.2-247 et  
5483 seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly  
5484 selected from the seized substance for representative purposes as evidence and destroy the remainder of the  
5485 seized substance.

5486 Before any destruction is carried out under this section, the law-enforcement agency shall cause the  
5487 material seized to be photographed with identification case numbers or other means of identification and shall  
5488 prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if  
5489 known, or his attorney, at least five days in advance that the photography will take place and that they may be  
5490 present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused  
5491 or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and  
5492 place the destruction will occur. Any notice required under the provisions of this section shall be by first-  
5493 class mail to the last known address of the person required to be notified. In addition to the substance retained

5494 for representative purposes as evidence, all photographs and records made under this section and properly  
5495 identified shall be admissible in any court proceeding for any purposes for which the seized substance itself  
5496 would have been admissible.

5497     **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
5498 **substances, etc.**

5499     Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take  
5500 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation  
5501 controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution  
5502 under *Chapter 11* (§ 4.1-1100 *et seq.*) of *Title 4.1* or Chapter 7 (§ 18.2-247 *et seq.*) of Title 18.2. The court in  
5503 its order may make provision for ensuring integrity of these items until further order of the court.

5504     **§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

5505     A. Criminal history record information shall be disseminated, whether directly or through an intermediary,  
5506 only to:

5507     1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of  
5508 the administration of criminal justice and the screening of an employment application or review of  
5509 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination  
5510 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible  
5511 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of  
5512 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this  
5513 subdivision, criminal history record information includes information sent to the Central Criminal Records  
5514 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee  
5515 of the State Police, a police department or sheriff's office that is a part of or administered by the  
5516 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection  
5517 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of  
5518 the administration of criminal justice;

5519     2. Such other individuals and agencies that require criminal history record information to implement a  
5520 state or federal statute or executive order of the President of the United States or Governor that expressly  
5521 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except  
5522 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice  
5523 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the

5524 charge has been recorded and no active prosecution of the charge is pending;

5525 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
5526 services required for the administration of criminal justice pursuant to that agreement which shall specifically  
5527 authorize access to data, limit the use of data to purposes for which given, and ensure the security and  
5528 confidentiality of the data;

5529 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant  
5530 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of  
5531 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5532 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
5533 of the President of the United States or Governor to conduct investigations determining employment  
5534 suitability or eligibility for security clearances allowing access to classified information;

5535 6. Individuals and agencies where authorized by court order or court rule;

5536 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
5537 operated or controlled by any political subdivision, and any public service corporation that operates a public  
5538 transit system owned by a local government for the conduct of investigations of applicants for employment,  
5539 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
5540 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
5541 with the nature of the employment, permit, or license under consideration;

5542 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) ~~of Title~~  
5543 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position  
5544 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
5545 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
5546 record would be compatible with the nature of the employment under consideration;

5547 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
5548 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
5549 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
5550 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis  
5551 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further  
5552 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
5553 express requirement of law;

5554 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
5555 the conduct of investigations of applicants for employment when such employment involves personal contact  
5556 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
5557 employment under consideration;

5558 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
5559 including, but not limited to, issuing visas and passports;

5560 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
5561 his cost, except that criminal history record information shall be supplied at no charge to a person who has  
5562 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
5563 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
5564 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
5565 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in  
5566 § 15.2-1713.1;

5567 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
5568 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
5569 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
5570 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
5571 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
5572 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
5573 Services' representative or a federal or state authority or court as may be required to comply with an express  
5574 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
5575 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
5576 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of  
5577 § 22.1-289.035 or § 22.1-289.039;

5578 13. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
5579 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
5580 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
5581 pursuant to § 63.2-901.1;

5582 14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
5583 who accept public school employment and those current school board employees for whom a report of arrest  
5584 has been made pursuant to § 19.2-83.1;

5585 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
5586 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the  
5587 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
5588 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5589 16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
5590 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
5591 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
5592 limitations set out in subsection E;

5593 17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
5594 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
5595 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5596 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in  
5597 § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in*  
5598 *§ 4.1-622;*

5599 19. The State Board of Elections and authorized officers and employees thereof and general registrars  
5600 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
5601 registration, limited to any record of felony convictions;

5602 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
5603 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
5604 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,  
5605 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
5606 evaluation, treatment, or discharge planning;

5607 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
5608 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under  
5609 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5610 22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
5611 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
5612 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5613 23. The Department of Behavioral Health and Developmental Services and facilities operated by the  
5614 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
5615 instructions;



5616 24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
5617 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
5618 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
5619 Department of State Police;

5620 25. Public institutions of higher education and nonprofit private institutions of higher education for the  
5621 purpose of screening individuals who are offered or accept employment;

5622 26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
5623 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
5624 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
5625 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
5626 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
5627 that such disclosure was made to the threat assessment team;

5628 27. Executive directors of community services boards or the personnel director serving the community  
5629 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
5630 residential service provider, permission to enter into a shared living arrangement with a person receiving  
5631 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
5632 community services board to serve in a direct care position on behalf of the community services board  
5633 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5634 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
5635 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
5636 permission to enter into a shared living arrangement with a person receiving medical assistance services  
5637 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
5638 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
5639 37.2-506.1, and 37.2-607;

5640 29. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
5641 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,  
5642 address, demographics and social security number of the data subject shall be released;

5643 30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
5644 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose  
5645 of determining if any applicant who accepts employment in any direct care position or requests approval as a  
5646 sponsored residential service provider, permission to enter into a shared living arrangement with a person

5647 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with  
5648 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have  
5649 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or  
5650 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5651 31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for  
5652 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et  
5653 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5654 32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee  
5655 for Courts of Justice for the purpose of determining if any person being considered for election to any  
5656 judgeship has been convicted of a crime;

5657 33. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5658 determining an individual's fitness for employment in positions designated as sensitive under Department of  
5659 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5660 34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
5661 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
5662 Predators Act (§ 37.2-900 et seq.);

5663 35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
5664 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
5665 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
5666 laborers, and other visitors;

5667 36. Any employer of individuals whose employment requires that they enter the homes of others, for the  
5668 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5669 37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
5670 of adult foster care and home-based services or (ii) any individual with whom the agency is considering  
5671 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the  
5672 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
5673 state authority or court as may be required to comply with an express requirement of law for such further  
5674 dissemination, subject to limitations set out in subsection G;

5675 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5676 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or

5677 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
5678 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
5679 administered by the Department of Medical Assistance Services;

5680 39. The State Corporation Commission for the purpose of investigating individuals who are current or  
5681 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
5682 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
5683 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
5684 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
5685 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
5686 or its designee;

5687 40. The Department of Professional and Occupational Regulation for the purpose of investigating  
5688 individuals for initial licensure pursuant to § 54.1-2106.1;

5689 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
5690 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
5691 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
5692 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5693 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5694 43. The State Treasurer for the purpose of determining whether a person receiving compensation for  
5695 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5696 44. The Department of Education or its agents or designees for the purpose of screening individuals  
5697 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
5698 of child care services for which child care subsidy payments may be provided;

5699 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
5700 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
5701 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5702 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
5703 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5704 47. Administrators and board presidents of and applicants for licensure or registration as a child day  
5705 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
5706 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
5707 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034

5708 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
5709 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
5710 a federal or state authority or court as may be required to comply with an express requirement of law for such  
5711 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
5712 of Public Instruction's representative from issuing written certifications regarding the results of prior  
5713 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5714 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
5715 are offered or accept employment or will be providing volunteer or contractual services with the National  
5716 Center for Missing and Exploited Children;

5717 49. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
5718 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5719 50. Other entities as otherwise provided by law.

5720 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
5721 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
5722 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
5723 whom a report has been made under the provisions of this chapter.

5724 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
5725 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
5726 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
5727 of conviction data covering the person named in the request to the person making the request; however, such  
5728 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
5729 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
5730 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
5731 the request shall be furnished at his cost a certification to that effect.

5732 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
5733 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
5734 otherwise provided in subdivision A 47.

5735 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history  
5736 record information for employment or licensing inquiries except as provided by law.

5737 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange

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

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

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

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

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

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his

possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

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

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

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

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

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

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

5798 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
5799 of the President of the United States or Governor to conduct investigations determining employment  
5800 suitability or eligibility for security clearances allowing access to classified information;

5801 6. Individuals and agencies where authorized by court order or court rule;

5802 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
5803 operated or controlled by any political subdivision, and any public service corporation that operates a public  
5804 transit system owned by a local government for the conduct of investigations of applicants for employment,  
5805 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
5806 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
5807 with the nature of the employment, permit, or license under consideration;

5808 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) ~~of Title~~  
5809 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position  
5810 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
5811 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
5812 record would be compatible with the nature of the employment under consideration;

5813 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
5814 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
5815 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
5816 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis  
5817 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further  
5818 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
5819 express requirement of law;

5820 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
5821 the conduct of investigations of applicants for employment when such employment involves personal contact  
5822 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
5823 employment under consideration;

5824 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
5825 including, but not limited to, issuing visas and passports;

5826 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
5827 his cost, except that criminal history record information shall be supplied at no charge to a person who has

5828 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
5829 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
5830 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
5831 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in  
5832 § 15.2-1713.1;

5833 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
5834 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
5835 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
5836 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
5837 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
5838 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
5839 Services' representative or a federal or state authority or court as may be required to comply with an express  
5840 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
5841 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
5842 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of  
5843 § 22.1-289.035 or § 22.1-289.039;

5844 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended  
5845 care center for dissemination to the State Health Commissioner's representative pursuant to  
5846 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and  
5847 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be  
5848 further disseminated by the center to any party other than the data subject, the State Health Commissioner's  
5849 representative, or a federal or state authority or court as may be required to comply with an express  
5850 requirement of law;

5851 14. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
5852 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
5853 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
5854 pursuant to § 63.2-901.1;

5855 15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
5856 who accept public school employment and those current school board employees for whom a report of arrest  
5857 has been made pursuant to § 19.2-83.1;

5858 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law



5859 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the  
5860 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
5861 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5862 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for  
5863 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to  
5864 § 32.1-162.15:1.17;

5865 18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
5866 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
5867 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
5868 limitations set out in subsection E;

5869 19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
5870 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
5871 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5872 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in  
5873 § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in*  
5874 *§ 4.1-622;*

5875 21. The State Board of Elections and authorized officers and employees thereof and general registrars  
5876 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
5877 registration, limited to any record of felony convictions;

5878 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
5879 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
5880 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,  
5881 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
5882 evaluation, treatment, or discharge planning;

5883 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
5884 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under  
5885 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5886 24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
5887 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
5888 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5889 25. The Department of Behavioral Health and Developmental Services and facilities operated by the

5890 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
5891 instructions;

5892 26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
5893 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
5894 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
5895 Department of State Police;

5896 27. Public institutions of higher education and nonprofit private institutions of higher education for the  
5897 purpose of screening individuals who are offered or accept employment;

5898 28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
5899 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
5900 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
5901 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
5902 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
5903 that such disclosure was made to the threat assessment team;

5904 29. Executive directors of community services boards or the personnel director serving the community  
5905 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
5906 residential service provider, permission to enter into a shared living arrangement with a person receiving  
5907 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
5908 community services board to serve in a direct care position on behalf of the community services board  
5909 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5910 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
5911 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
5912 permission to enter into a shared living arrangement with a person receiving medical assistance services  
5913 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
5914 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
5915 37.2-506.1, and 37.2-607;

5916 31. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
5917 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,  
5918 address, demographics and social security number of the data subject shall be released;

5919 32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
5920 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose

5921 of determining if any applicant who accepts employment in any direct care position or requests approval as a  
5922 sponsored residential service provider, permission to enter into a shared living arrangement with a person  
5923 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with  
5924 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have  
5925 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or  
5926 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5927 33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for  
5928 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et  
5929 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5930 34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee  
5931 for Courts of Justice for the purpose of determining if any person being considered for election to any  
5932 judgeship has been convicted of a crime;

5933 35. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5934 determining an individual's fitness for employment in positions designated as sensitive under Department of  
5935 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5936 36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
5937 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
5938 Predators Act (§ 37.2-900 et seq.);

5939 37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
5940 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
5941 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
5942 laborers, and other visitors;

5943 38. Any employer of individuals whose employment requires that they enter the homes of others, for the  
5944 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5945 39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
5946 of adult foster care and home-based services or (ii) any individual with whom the agency is considering  
5947 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the  
5948 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
5949 state authority or court as may be required to comply with an express requirement of law for such further  
5950 dissemination, subject to limitations set out in subsection G;

5951 40. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5952 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
5953 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
5954 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
5955 administered by the Department of Medical Assistance Services;

5956 41. The State Corporation Commission for the purpose of investigating individuals who are current or  
5957 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
5958 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§ 6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
5959 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
5960 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
5961 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
5962 or its designee;

5963 42. The Department of Professional and Occupational Regulation for the purpose of investigating  
5964 individuals for initial licensure pursuant to § 54.1-2106.1;

5965 43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
5966 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
5967 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
5968 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5969 44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5970 45. The State Treasurer for the purpose of determining whether a person receiving compensation for  
5971 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5972 46. The Department of Education or its agents or designees for the purpose of screening individuals  
5973 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
5974 of child care services for which child care subsidy payments may be provided;

5975 47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
5976 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
5977 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5978 48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
5979 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5980 49. Administrators and board presidents of and applicants for licensure or registration as a child day  
5981 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the

5982 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
5983 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
5984 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
5985 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
5986 a federal or state authority or court as may be required to comply with an express requirement of law for such  
5987 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
5988 of Public Instruction's representative from issuing written certifications regarding the results of prior  
5989 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5990 50. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
5991 are offered or accept employment or will be providing volunteer or contractual services with the National  
5992 Center for Missing and Exploited Children;

5993 51. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
5994 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5995 52. Other entities as otherwise provided by law.

5996 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
5997 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
5998 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
5999 whom a report has been made under the provisions of this chapter.

6000 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
6001 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
6002 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
6003 of conviction data covering the person named in the request to the person making the request; however, such  
6004 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
6005 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
6006 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
6007 the request shall be furnished at his cost a certification to that effect.

6008 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
6009 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
6010 otherwise provided in subdivision A 49.

6011 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history

6012 record information for employment or licensing inquiries except as provided by law.

6013 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange  
6014 prior to dissemination of any criminal history record information on offenses required to be reported to the  
6015 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.  
6016 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the  
6017 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal  
6018 justice agency to whom a request has been made for the dissemination of criminal history record information  
6019 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the  
6020 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses  
6021 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the  
6022 record as required by § 15.2-1722.

6023 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
6024 organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for  
6025 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

6026 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
6027 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any  
6028 offense specified in § 63.2-1720.

6029 G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited  
6030 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
6031 crime in § 19.2-392.02.

6032 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
6033 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
6034 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
6035 request to the employer or prospective employer making the request, provided that the person on whom the  
6036 data is being obtained has consented in writing to the making of such request and has presented a photo-  
6037 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
6038 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a  
6039 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
6040 Exchange.

6041 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal

6042 history record information, including criminal history record information maintained in the National Crime  
6043 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his  
6044 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal  
6045 history record information provided under this subsection shall be disseminated further.

6046     **§ 19.2-389.3. (Repealed effective July 1, 2026) Marijuana possession; limits on dissemination of**  
6047 **criminal history record information; prohibited practices by employers, educational institutions, and**  
6048 **state and local governments; penalty.**

6049     A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of  
6050 *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* §  
6051 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the  
6052 Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided  
6053 that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of  
6054 eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report  
6055 prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter  
6056 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the  
6057 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local  
6058 community-based probation services agencies established pursuant to the Comprehensive Community  
6059 Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult  
6060 local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for  
6061 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
6062 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
6063 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines  
6064 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State  
6065 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any  
6066 political subdivision thereof, and who is responsible for the prevention and detection of crime and the  
6067 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration  
6068 of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research  
6069 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's  
6070 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the  
6071 purpose of screening any person for full-time or part-time employment with the State Police or a police  
6072 department or sheriff's office that is a part of or administered by the Commonwealth or any political

subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

**§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**



**6103 employees or volunteers providing care to children or the elderly or disabled.**

**6104** A. For purposes of this section:

**6105** "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
**6106** 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony  
**6107** violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or  
**6108** 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3;  
**6109** any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52,  
**6110** 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,  
**6111** 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony  
**6112** violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,  
**6113** 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3,  
**6114** 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or  
**6115** 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or  
**6116** 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of  
**6117** § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any  
**6118** violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1,  
**6119** 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3,  
**6120** 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any  
**6121** violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2,  
**6122** 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484,  
**6123** 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction;  
**6124** (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar  
**6125** offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, ~~4.1-1114~~, 18.2-248,  
**6126** 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,  
**6127** 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of  
**6128** another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the  
**6129** laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to  
**6130** register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any  
**6131** finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.)  
**6132** of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the  
**6133** Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense

6134 under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes  
6135 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)  
6136 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date  
6137 of the conviction.

6138 "Barrier crime information" means the following facts concerning a person who has been arrested for, or  
6139 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of  
6140 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of  
6141 the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of  
6142 the charge, and any other information that may be useful in identifying persons arrested for or convicted of a  
6143 barrier crime.

6144 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation  
6145 to children or the elderly or disabled.

6146 "Department" means the Department of State Police.

6147 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks  
6148 to volunteer for a qualified entity.

6149 "Identification document" means a document made or issued by or under the authority of the United  
6150 States government, a state, a political subdivision of a state, a foreign government, political subdivision of a  
6151 foreign government, an international governmental or an international quasi-governmental organization that,  
6152 when completed with information concerning a particular individual, is of a type intended or commonly  
6153 accepted for the purpose of identification of individuals.

6154 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have  
6155 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;  
6156 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to  
6157 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

6158 "Qualified entity" means a business or organization that provides care to children or the elderly or  
6159 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
6160 pursuant to subdivision A 7 of § 22.1-289.030.

6161 B. A qualified entity may request the Department of State Police to conduct a national criminal  
6162 background check on any provider who is employed by such entity. No qualified entity may request a

6163 national criminal background check on a provider until such provider has:

6164 1. Been fingerprinted; and

6165 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date  
6166 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has  
6167 ever been convicted of or is the subject of pending charges for a criminal offense within or outside the  
6168 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the  
6169 particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv)  
6170 a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the  
6171 accuracy and completeness of any information contained in any such report, and to obtain a prompt  
6172 determination as to the validity of such challenge before a final determination is made by the Department;  
6173 and (v) a notice to the provider that prior to the completion of the background check the qualified entity may  
6174 choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified  
6175 entity provides care.

6176 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)  
6177 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the  
6178 Department shall make a determination whether the provider has been convicted of or is the subject of  
6179 charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information,  
6180 the Department shall access the national criminal history background check system, which is maintained by  
6181 the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall  
6182 access the Central Criminal Records Exchange maintained by the Department. If the Department receives a  
6183 background report lacking disposition data, the Department shall conduct research in whatever state and local  
6184 recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable  
6185 efforts to respond to a qualified entity's inquiry within 15 business days.

6186 D. Any background check conducted pursuant to this section for a provider employed by a private entity  
6187 shall be screened by the Department of State Police. If the provider has been convicted of or is under  
6188 indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work  
6189 or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

6190 E. Any background check conducted pursuant to this section for a provider employed by a governmental  
6191 entity shall be provided to that entity.

6192 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national  
6193 criminal background check, the Department and the Federal Bureau of Investigation may each charge the  
6194 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the  
6195 fingerprints.

6196 G. The failure to request a criminal background check pursuant to subsection B shall not be considered  
6197 negligence per se in any civil action.

6198 **§ 19.2-392.6. (Effective July 1, 2026) Automatic sealing of offenses resulting in conviction.**

6199 A. If a person was convicted of a violation of any of the following sections with an offense date on or  
6200 after January 1, 1986, such conviction, including any records relating to such conviction, shall be ordered to  
6201 be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and  
6202 C: a misdemeanor violation of § 18.2-96 or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor  
6203 violation of *former* § 18.2-248.1; or § 18.2-415.

6204 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to  
6205 be automatically sealed if seven years have passed since the date of the conviction and the person convicted  
6206 of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the  
6207 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of  
6208 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during  
6209 that time period.

6210 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the conviction,  
6211 the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

6212 This section shall not be construed as prohibiting a person from seeking sealing in the circuit court  
6213 pursuant to the provisions of § 19.2-392.12 or 19.2-392.12:1.

6214 **§ 19.2-392.12:1. (Effective July 1, 2026) Sealing of charges and convictions related to automatic**  
6215 **sealing; petition.**

6216 A. A person who has been convicted of or had a charge deferred and dismissed for a violation of  
6217 § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or  
6218 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a  
6219 violation of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file  
6220 a petition setting forth the relevant facts and requesting the sealing of the criminal history record information  
6221 and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or  
6222 conviction, such petition may also request the sealing of any specifically identified ancillary matter related to

6223 such charge or conviction.

6224 B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7 or 19.2-392.11  
6225 where the offense date for such conviction or offense was on or after January 1, 1986, or who had an offense  
6226 sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition setting forth the  
6227 relevant facts and requesting sealing of the criminal history record information and court records of any  
6228 specifically identified ancillary matter related to that charge or conviction.

6229 C. A person shall not be required to pay any court fees or costs for filing a petition pursuant to this  
6230 section.

6231 D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if  
6232 reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of  
6233 and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the arresting  
6234 agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary matter; and (iv)  
6235 the case number associated with each court record that is the subject of the petition. When this information is  
6236 not reasonably available, the petition shall state the reason for such unavailability. The petition shall further  
6237 state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final disposition of the charge,  
6238 conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date of birth, sex, race, and social  
6239 security number, if available; and (d) the full name used by the petitioner at the time of arrest or summons. A  
6240 petition may request the sealing of the criminal history record information and court records for multiple  
6241 charges, convictions, or ancillary matters as set forth in subsections A and B, provided that all such charges,  
6242 convictions, and ancillary matters are eligible for sealing under this section. A petition may not request the  
6243 sealing of the criminal history record information and court records where the charge, conviction, or ancillary  
6244 matter was finalized on the same date as a conviction or deferred dismissal that is not eligible for sealing  
6245 under this section.

6246 E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within  
6247 his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum  
6248 of two petitions set forth in § 19.2-392.12.

6249 F. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the  
6250 petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the  
6251 Commonwealth of the county or city in which the petition is filed. The attorney for the Commonwealth may

6252 file an objection or answer to the petition or may give written notice to the court that he does not object to the  
6253 petition within 30 days after it is delivered to him or received in the mail.

6254 G. In addition to the filing of the petition under subsection D, the petitioner shall request that the Central  
6255 Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and national  
6256 criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the  
6257 CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to  
6258 receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which  
6259 shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the  
6260 hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of  
6261 the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal  
6262 as provided by law in civil cases.

6263 H. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the  
6264 petition.

6265 I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the  
6266 records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed  
6267 since the date of conviction or of dismissal of the deferred charge listed in subsection A and the petitioner has  
6268 not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal  
6269 Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the  
6270 United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

6271 J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter if  
6272 the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, or  
6273 19.2-392.11.

6274 K. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives  
6275 written notice to the court pursuant to subsection F that he does not object to the petition and (ii) stipulates in  
6276 such written notice that the petitioner is eligible to have such charge, conviction, or ancillary matter sealed,  
6277 the court may enter an order of sealing without conducting a hearing.

6278 L. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

6279 M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under  
6280 seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police.  
6281 Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and social

6282 security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons; (iii)  
6283 the petitioner's state identification number from the criminal history record; (iv) the court case number of the  
6284 charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number, if  
6285 available. The Department of State Police shall validate the accuracy of any criminal history record ordered  
6286 to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon  
6287 receipt of such electronic notification, the Department of State Police shall seal such records in accordance  
6288 with § 19.2-392.13. The Department of State Police shall also electronically notify the Office of the  
6289 Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to  
6290 have obtained such a record that such record has been ordered to be sealed and may only be disseminated in  
6291 accordance with § 19.2-392.13.

6292 N. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth  
6293 in this section or (ii) the court entered an order for the sealing of records contrary to law shall be voidable  
6294 upon motion and notice made within two years of the entry of such order.

6295 O. A petition filed under this section and any responsive pleadings filed by the attorney for the  
6296 Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order  
6297 to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth  
6298 in § 19.2-392.13.

6299 P. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge,  
6300 conviction, or ancillary matter under this section when such charge, conviction, or ancillary matter is eligible  
6301 for sealing under some other section of this chapter.

6302 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp**  
6303 **products intended for smoking, and gambling.**

6304 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by  
6305 the Board of Education.

6306 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,  
6307 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic  
6308 Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials  
6309 to the Department of Education. The Department of Education shall review and shall distribute such materials  
6310 as are approved to the public schools.

6311 The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall  
6312 distribute to each local school division educational materials concerning the health and safety risks of using

6313 retail tobacco products and hemp products intended for smoking, as such terms are defined in § 18.2-371.2.  
6314 Instruction concerning the health and safety risks of using *retail* tobacco products and hemp products  
6315 intended for smoking, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary  
6316 and secondary school in the Commonwealth, consistent with such educational materials.

6317 C. Instruction concerning gambling and the addictive potential thereof shall be provided by the public  
6318 schools as prescribed by the Board.

6319 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

6320 A. School boards shall expel from school attendance any student whom such school board has  
6321 determined, in accordance with the procedures set forth in this article, to have brought a controlled substance;  
6322 or imitation controlled substance; ~~or marijuana~~ as those terms are defined in § 18.2-247 onto school property  
6323 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board  
6324 may, however, determine, based on the facts of a particular situation, that special circumstances exist and no  
6325 disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board  
6326 may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of  
6327 such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations  
6328 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such  
6329 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.  
6330 Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the  
6331 particular situation.

6332 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this  
6333 section no later than three months after the date on which this act becomes effective.

6334 **§ 23.1-1301. Governing boards; powers.**

6335 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 6336 1. Make regulations and policies concerning the institution;  
6337 2. Manage the funds of the institution and approve an annual budget;  
6338 3. Appoint the chief executive officer of the institution;  
6339 4. Appoint professors and fix their salaries; and  
6340 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

6341 B. The governing board of each public institution of higher education or its designee may:

- 6342 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative



6343 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
6344 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and  
6345 conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the  
6346 same manner as all other gifts and bequests;

6347 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes  
6348 on any property owned by the institution;

6349 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,  
6350 or controlled by the institution;

6351 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
6352 instructors, and other employees;

6353 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the  
6354 regulations or institution policies required pursuant to § 23.1-1303;

6355 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission  
6356 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such  
6357 regulations or policies;

6358 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote  
6359 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness  
6360 and prevention of sexual crimes committed upon students;

6361 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in  
6362 accordance with the prohibition against hazing as defined in § 18.2-56;

6363 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an  
6364 interest, provided such assignment is in accordance with the terms of the institution's intellectual property  
6365 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of  
6366 such property (i) developed wholly or predominantly through the use of state general funds, exclusive of  
6367 capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned  
6368 duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship  
6369 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit  
6370 organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective  
6371 institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the  
6372 Governor does not approve such transfer, the materials shall remain the property of the respective institutions  
6373 and may be used and developed in any manner permitted by law;

6374 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through  
6375 electronic communication means pursuant to § 2.2-3708.3; and

6376 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to  
6377 enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
6378 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and  
6379 local ordinances with respect to offenses occurring on the property of the institution.

6380 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

6381 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,  
6382 vehicle registration, certificate of title, or other document issued by the Department if such person has not  
6383 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled  
6384 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or  
6385 altered documents.

6386 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle  
6387 registration, certificate of title, or other document in violation of the provisions of subsection A.

6388 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special  
6389 identification card, vehicle registration, certificate of title, or other document obtained in violation of the  
6390 provisions of subsection A.

6391 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is  
6392 charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any  
6393 document issued by the Department for the purpose of engaging in any age-limited activity, including but not  
6394 limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is  
6395 charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

6396 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special  
6397 identification card, vehicle registration, certificate of title, or other document issued by the Department has  
6398 been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of  
6399 the cancellation to the address of record maintained by the Department.

6400 F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any  
6401 document issued by the Department, (ii) where any person received or created any counterfeit, forged, or  
6402 altered document used to obtain any document issued by the Department, or (iii) where any counterfeit,

6403 forged, or altered document has been filed with the Department.

6404     **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card**  
6405 **to obtain alcoholic beverages or marijuana; penalties.**

6406     Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive  
6407 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the  
6408 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States  
6409 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of  
6410 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign  
6411 government agency; or official student identification card of an institution of higher education to obtain  
6412 alcoholic beverages ~~shall be~~ *or marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a  
6413 violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a  
6414 motor vehicle for a period of not less than 30 days nor more than one year.

6415     **§ 48-17.1. Temporary injunctions against alcoholic beverage sales or marijuana sales.**

6416     A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to  
6417 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic  
6418 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be  
6419 the operator of the establishment has allowed it to become a meeting place for persons committing serious  
6420 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be  
6421 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement  
6422 officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of  
6423 evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol  
6424 *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety  
6425 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the  
6426 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with  
6427 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the  
6428 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later  
6429 finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change  
6430 of ownership, management, or business operations at the establishment, or other change in circumstance.

6431     B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall  
6432 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic  
6433 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the

activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

**§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the

6464 restoration of the right or denial of restoration by the Governor.

6465 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
6466 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

6467 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

6468 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as  
6469 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public  
6470 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"  
6471 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation  
6472 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or  
6473 relieve those suffering from any injury, deformity or disease.

6474 Signing a birth or death certificate, or signing any statement certifying that the person so signing has  
6475 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other  
6476 remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the  
6477 healing arts within the meaning of this chapter except where persons other than physicians are required to  
6478 sign birth certificates.

6479 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing  
6480 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation  
6481 or designation, or other language that identifies the type of practice for which he is licensed. No person  
6482 regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in §  
6483 ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However,  
6484 nothing in this subsection shall prevent a person from including in any advertisement that such person is  
6485 registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written  
6486 certifications for the use of cannabis products, as defined in § 4.1-1600.

6487 **§ 54.1-3443. Board to administer article.**

6488 A. The Board shall administer this article and may add substances to or deschedule or reschedule all  
6489 substances enumerated in the schedules in this article pursuant to the procedures of the Administrative  
6490 Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider  
6491 the following:

- 6492 1. The actual or relative potential for abuse;
- 6493 2. The scientific evidence of its pharmacological effect, if known;

6494 3. The state of current scientific knowledge regarding the substance;  
6495 4. The history and current pattern of abuse;  
6496 5. The scope, duration, and significance of abuse;  
6497 6. The risk to the public health;  
6498 7. The potential of the substance to produce psychic or physical dependence; and  
6499 8. Whether the substance is an immediate precursor of a substance already controlled under this article.

6500 B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a  
6501 regulation controlling the substance if it finds the substance has a potential for abuse.

6502 C. If the Board designates a substance as an immediate precursor, substances which are precursors of the  
6503 controlled precursor shall not be subject to control solely because they are precursors of the controlled  
6504 precursor.

6505 D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall  
6506 be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations  
6507 pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such  
6508 amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it  
6509 shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to  
6510 any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all  
6511 substances it intends to schedule by regulation. The Board shall notify the House and Senate Committees for  
6512 Courts of Justice of any new substance added to Schedule I or II pursuant to this subsection. Any substance  
6513 added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18  
6514 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law  
6515 is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from  
6516 adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to  
6517 the provisions of subsections A, B, and E.

6518 E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law  
6519 and notice of such action is given to the Board, the Board may similarly control the substance under this  
6520 chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order  
6521 or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by  
6522 amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the  
6523 Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on

the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by regulation in such notice.

F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 4.1.

G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully sold over the counter without a prescription.

H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600, ~~18.2-247~~, or 54.1-3401.

**§ 54.1-4426. Accounting services for licensed marijuana establishments.**

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

B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation solely for providing such accounting services.

C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed marijuana establishment.

**§ 58.1-301. Conformity to Internal Revenue Code.**

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the

6554 Internal Revenue Code;

6555 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax  
6556 purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable  
6557 debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall  
6558 be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to  
6559 include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period  
6560 beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-  
6561 year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before  
6562 April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code  
6563 shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of  
6564 indebtedness in connection with the reacquisition of an "applicable debt instrument";

6565 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on  
6566 itemized deductions under § 68(f) of the Internal Revenue Code;

6567 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable  
6568 years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set  
6569 forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed  
6570 for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the  
6571 threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for  
6572 medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross  
6573 income;

6574 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic  
6575 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

6576 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.  
6577 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

6578 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.  
6579 116-136 (2020), related to the limitation on business interest;

6580 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3),  
6581 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal  
6582 Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the  
6583 federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases



6584 for certain loan forgiveness and other business financial assistance; ~~and~~

6585 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would  
6586 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the  
6587 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall  
6588 not apply to any amendment to federal income tax law that is either subsequently adopted by the General  
6589 Assembly or a federal tax extender as defined in subdivision b.

6590 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of  
6591 the previous regular session of the General Assembly and the first day of the subsequent regular session of  
6592 the General Assembly if the cumulative projected impact of such amendments would increase or decrease  
6593 general fund revenues by greater than \$75 million in the fiscal year in which the amendments were enacted or  
6594 any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment  
6595 to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender  
6596 as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met.  
6597 However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the \$75  
6598 million threshold for purposes of determining whether such threshold has been met.

6599 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based  
6600 on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as  
6601 published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the  
6602 previous year.

6603 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law  
6604 or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold  
6605 impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of  
6606 a federal tax provision to which Virginia conforms or has previously conformed.

6607 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and  
6608 Appropriations and the House Committees on Appropriations and Finance, shall be responsible for  
6609 determining whether the criteria of subdivision a are met.

6610 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the  
6611 fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the  
6612 preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and

6613 Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall  
6614 also provide updates to the same Chairmen on any further amendments to federal income tax law occurring  
6615 between submission of the required report and the first day of the subsequent regular session of the General  
6616 Assembly; and

6617 *12. For taxable years beginning on and after January 1, 2026, the prohibition on utilizing tax deductions*  
6618 *for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in*  
6619 *Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) under § 280E of the Internal Revenue*  
6620 *Code.*

6621 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for  
6622 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the  
6623 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

6624 **§ 59.1-200. Prohibited practices.**

6625 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
6626 transaction are hereby declared unlawful:

6627 1. Misrepresenting goods or services as those of another;

6628 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

6629 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,  
6630 with another;

6631 4. Misrepresenting geographic origin in connection with goods or services;

6632 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
6633 benefits;

6634 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

6635 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,  
6636 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly  
6637 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,  
6638 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or  
6639 "not first class";

6640 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the  
6641 price or upon the terms advertised.

6642 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant

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

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

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

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

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

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

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

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

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

6672 16. Failing to disclose all conditions, charges, or fees relating to:

6673 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
6674 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
6675 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not  
6676 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this  
6677 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than  
6678 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of  
6679 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of  
6680 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be  
6681 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to  
6682 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor  
6683 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order  
6684 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's  
6685 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor  
6686 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

6687 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of  
6688 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the  
6689 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure  
6690 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

6691 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5  
6692 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such  
6693 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving  
6694 overpayments. If the credit balance information is incorporated into statements of account furnished  
6695 consumers by suppliers within such 60-day period, no separate or additional notice is required;

6696 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in  
6697 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

6698 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

6699 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

6700 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

6701 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17

- 6702 et seq.);
- 6703 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 6704 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
- 6705 seq.);
- 6706 24. Violating any provision of § 54.1-1505;
- 6707 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
- 6708 (§ 59.1-207.34 et seq.);
- 6709 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 6710 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 6711 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 6712 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 6713 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 6714 seq.);
- 6715 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 6716 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 6717 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 6718 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 6719 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 6720 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 6721 consumer's social security number;
- 6722 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 6723 37. Violating any provision of § 8.01-40.2;
- 6724 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 6725 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 6726 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 6727 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 6728 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
- 6729 § 59.1-526;
- 6730 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 6731 43. Violating any provision of § 59.1-443.2;
- 6732 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

- 6733** 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 6734** 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 6735** 47. Violating any provision of § 18.2-239;
- 6736** 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 6737** 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has  
**6738** reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable  
**6739** presumption that a supplier has reason to know a children's product was recalled if notice of the recall has  
**6740** been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the  
**6741** website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's  
**6742** products that are used, secondhand or "seconds";
- 6743** 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 6744** 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 6745** 52. Violating any provision of § 8.2-317.1;
- 6746** 53. Violating subsection A of § 9.1-149.1;
- 6747** 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling  
**6748** in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This  
**6749** subdivision shall not apply to the sale or offering for sale of any building or structure in which defective  
**6750** drywall has been permanently installed or affixed;
- 6751** 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a  
**6752** transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to  
**6753** repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of  
**6754** whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et  
**6755** seq.) of Title 54.1;
- 6756** 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 6757** 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 6758** 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,  
**6759** "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer  
**6760** by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 6761** 59. Violating any provision of subsection E of § 32.1-126;
- 6762** 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under

- Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
67. Knowingly violating any provision of § 8.01-27.5;
68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an obligation to pay for the goods or services;
69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;
70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;
71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as 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 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance

and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body~~ *a licensed marijuana testing facility*, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;

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

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

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

75. Violating any provision of § 59.1-466.8;

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

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



6824 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved  
6825 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted  
6826 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,  
6827 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not  
6828 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the  
6829 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning  
6830 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not  
6831 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the  
6832 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved  
6833 location;

6834 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a  
6835 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any  
6836 such good or provision of any such continuous service;

6837 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

6838 81. Selling or offering for sale services as a professional mold remediator to be performed upon any  
6839 residential dwelling without holding a mold remediation certification from a nationally or internationally  
6840 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental  
6841 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)  
6842 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent  
6843 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the  
6844 Commonwealth;

6845 82. Willfully violating any provision of § 59.1-444.4;

6846 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

6847 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the  
6848 requirements of 21 C.F.R. Part 101;

6849 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual  
6850 health information without the consent of the consumer;

6851 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

6852 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et  
6853 seq.).

6854 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease  
6855 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth  
6856 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation  
6857 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

6858 2. That §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.

6859 3. That the following provisions shall become effective on January 1, 2027: (i) §§ 2.2-2499.8, 3.2-4113,  
6860 4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01,  
6861 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1,  
6862 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.4,  
6863 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-389.3,  
6864 19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-277.08, 46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903,  
6865 54.1-3443, and 59.1-200 of the Code of Virginia, as amended by this act; (ii) §§ 4.1-1102 through  
6866 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and  
6867 4.1-1303 through 4.1-1309 of the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1,  
6868 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as repealed by this act.

6869 4. That by November 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to  
6870 100 microbusiness licenses pursuant to § 4.1-803 of the Code of Virginia, as created by this act, to  
6871 applicants that (i) (a) are industrial hemp processors or growers that (1) are registered with the  
6872 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of  
6873 Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, and are in good  
6874 standing as of July 1, 2026 or (2) were previously registered with the Commissioner of Agriculture and  
6875 Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia,  
6876 completed such registration prior to January 1, 2021, were in good standing prior to forfeiting such  
6877 registration or allowing such registration to expire, and have established the reason for the previous  
6878 forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance  
6879 issues related to the previous registration; (b) qualify as an impact license applicant pursuant to  
6880 subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act; or (c) qualify as a farmer  
6881 under the U.S. Department of Agriculture qualifications and (ii) meet any applicable licensing  
6882 requirements and financial, security, and operational readiness criteria as established by the  
6883 Authority. The Authority shall begin accepting applications for such microbusiness licenses no later  
6884 than July 1, 2026.

6885 5. That a pharmaceutical processor issued a permit by the Board of Directors (the Board) of the  
6886 Virginia Cannabis Control Authority (the Authority) pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the  
6887 Code of Virginia shall apply to the Board for dual-use privileges pursuant to § 4.1-1602.1 of the Code  
6888 of Virginia, as created by this act, in a manner prescribed by the Board between July 1, 2026, and  
6889 December 1, 2026. No later than July 1, 2026, the Authority shall create a streamlined application  
6890 process for pharmaceutical processors to apply for such dual-use privileges which shall include a  
6891 requirement that a pharmaceutical processor submit to and obtain approval from the Authority for a  
6892 detailed medical cannabis program preservation plan describing how such processor will prioritize  
6893 sales and access to medical cannabis products for qualifying patients, including a plan for managing  
6894 customer traffic flow, preventing supply shortages, and ensuring appropriate staffing. Provided the  
6895 applicable licensing requirements are met and upon the payment of a one-time \$10 million fee to the  
6896 Authority by the pharmaceutical processor, by December 1, 2026, the Board shall verify that such  
6897 pharmaceutical processor and its cannabis dispensing facilities may exercise dual-use privileges. On  
6898 and after December 1, 2026, a pharmaceutical processor issued a permit pursuant to Chapter 16  
6899 (§ 4.1-1600 et seq.) of the Code of Virginia who has not applied for verification to exercise dual-use  
6900 privileges and paid the conversion fee shall not exercise such dual-use privileges or renew its permit.

6901 6. That by December 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to  
6902 10 licenses, consisting of no more than five marijuana cultivation facility licenses and no more than five  
6903 marijuana processing facility licenses, to applicants that are industrial processors or growers that (i)(a)  
6904 are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1  
6905 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration prior to  
6906 January 1, 2021, or (b) (1) were previously registered with the Commissioner of Agriculture and  
6907 Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia; (2)  
6908 completed such registration prior to January 1, 2021; (3) were in good standing prior to forfeiting such  
6909 registration or allowing such registration to expire; and (4) have established the reason for the previous  
6910 forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance  
6911 issues related to the previous registration; (ii) meet any applicable licensing requirements; and (iii) pay  
6912 a one-time \$500,000 fee to the Authority. No later than July 1, 2026, the Authority shall create a  
6913 streamlined application process for such industrial hemp processors or growers to apply for such  
6914 licenses.

6915 7. That the Virginia Cannabis Control Authority (the Authority) may, on and after, July 1, 2026, begin

6916 accepting license applications from all applicants and issuing licenses pursuant to the provisions of  
6917 § 4.1-1000 of the Code of Virginia, as created by this act.

6918 8. That in addition to the 100 microbusiness licenses required to be issued by November 1, 2026,  
6919 pursuant to the fourth enactment of this act, by December 1, 2026, the Virginia Cannabis Control  
6920 Authority (the Authority) shall have (i) verified the pharmaceutical processors' dual-use privileges as  
6921 required by the fifth enactment of this act; (ii) issued no more than five marijuana cultivation facility  
6922 licenses and no more than five marijuana processing facility licenses to industrial hemp growers or  
6923 processors as required by the sixth enactment of this act; and (iii) issued at least 55 additional licenses  
6924 in total distributed among impact licensees, tier I marijuana cultivation facilities, and tier II marijuana  
6925 cultivation facilities.

6926 9. Notwithstanding the third enactment of this act, any applicant issued a license by the Authority or  
6927 pharmaceutical processor who the Board has verified may exercise dual-use privileges may operate in  
6928 accordance with the provisions of this act prior to January 1, 2027; however, prior to January 1, 2027,  
6929 no licensee may engage in the retail sale of marijuana, marijuana products, immature marijuana  
6930 plants, or marijuana seeds, unless such licensee is a pharmaceutical processor or cannabis dispensing  
6931 facility and is acting in accordance with the provisions of Chapter 16 (§ 4.1-1600 et seq.) of the Code of  
6932 Virginia. Notwithstanding any other provision of law, on or after July 1, 2026, and prior to January 1,  
6933 2027, no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana  
6934 transporter licensee, marijuana delivery operator, retail marijuana store licensee, microbusiness  
6935 licensee, marijuana testing facility licensee, or agent or employee thereof shall be subject to arrest or  
6936 prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or  
6937 § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4  
6938 of the Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by  
6939 this act, involving marijuana if such violation is related to acts committed within the scope of the  
6940 permit, licensure, or employment and in accordance with the provisions of the Cannabis Control Act  
6941 (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. By no later than January 1, 2027, the  
6942 Board shall have promulgated regulations governing outdoor growth pursuant to § 4.1-606 of the Code  
6943 of Virginia, as amended by this act.

6944 10. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-  
6945 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by September 1, 2026.

6946 11. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits

6947 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze  
6948 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility  
6949 licensees, and (iii) report its finding to the General Assembly by November 1, 2026. The Authority shall  
6950 continue such analysis and submit updated findings to the General Assembly for two years after such  
6951 initial report and shall submit such updated findings by November 1 during the two subsequent years.

6952 12. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall  
6953 promulgate regulations to implement the provisions of this act by September 1, 2026. With the  
6954 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process  
6955 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant  
6956 thereto shall apply to the Board's initial adoption of such regulations.

6957 13. That, from July 1, 2026, to July 1, 2027, the Virginia Cannabis Control Authority (the Authority)  
6958 shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into  
6959 the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as  
6960 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license  
6961 fees.

6962 14. That the provisions of the first enactment of this act amending subsection B of § 4.1-614 of the Code  
6963 of Virginia, as amended by this act, shall become effective July 1, 2028.

6964 15. That the Joint Commission to Oversee the Transition of the Commonwealth into a Cannabis Retail  
6965 Market (the Joint Commission) shall consider and make recommendations on (i) the establishment and  
6966 implementation of (a) on-site consumption licenses allowing adults to use cannabis on the premises of a  
6967 licensed marijuana establishment and (b) microbusiness cannabis event permits allowing  
6968 microbusiness licensees to hold temporary age-restricted sales events at approved venues such as  
6969 farmers markets or pop-up locations where such licensees may sell marijuana or marijuana products  
6970 directly to consumers outside of their licensed premises and (ii) the benefits, limitations, and feasibility  
6971 of the Virginia Alcoholic Beverage Control Authority's involvement in the enforcement of laws and  
6972 regulations related to the cannabis retail market in the Commonwealth. The Joint Commission shall  
6973 report its findings and recommendations to the Chairs of the House Committee on General Laws and  
6974 the Senate Committee on Rehabilitation and Social Services by November 1, 2026.

6975 16. That the Virginia Department of Education (the Department), with assistance from the Virginia  
6976 Cannabis Control Authority (the Authority) and other appropriate agencies, local school divisions, and

6977 appropriate experts, shall implement a plan to ensure that teachers have access to sufficient  
6978 information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use  
6979 among the youth and about substance abuse, as provided in the 2025 Health Standards of Learning.

6980 The Department shall (i) review resources currently provided to teachers to determine if additional or  
6981 updated material or lesson ideas are needed and (ii) provide or develop any additional materials and  
6982 resources deemed necessary and make the same available to teachers by January 1, 2027.

6983 17. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall  
6984 develop a plan for introducing teachers, particularly those teaching health, to the information and  
6985 resources available to them to assist them in teaching the 2025 Health Standards of Learning as it  
6986 relates to marijuana use. Such plan shall include providing professional development webinars as soon  
6987 as practicable, as well as ongoing periodic professional development relating to marijuana, as well as  
6988 alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of  
6989 implementation and any potential source of funds to cover such cost and shall be submitted to the  
6990 Governor and the General Assembly by November 1, 2026.

6991 18. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia  
6992 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and  
6993 Developmental Services shall work with existing collegiate recovery programs to determine what, if  
6994 any, additional evidence-based efforts should be undertaken for college-age individuals to promote  
6995 education and prevention strategies relating to marijuana. The plan shall

6996 include the estimated cost of implementation and any potential source of funds to cover such cost and  
6997 shall be submitted to the Governor and the General Assembly by November 1, 2026.

6998 19. That the provisions of this act may result in a net increase in periods of imprisonment or  
6999 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
7000 appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities; therefore,  
7001 Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to  
7002 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the  
7003 estimated amount of the necessary appropriation is \_\_\_\_\_ for periods of commitment to the custody  
7004 of the Department of Juvenile Justice.