

HOUSE BILL NO. 642
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on General Laws
on _____)
(Patron Prior to Substitute—Delegate Krizek)

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

public;

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

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

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

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

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

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

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

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

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

16. Employees of the Virginia Lottery;

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

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

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

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

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*

1383 violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by
1384 him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the
1385 requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the
1386 admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On
1387 motion of the accused or any party in interest, the court may require the forensic scientist making the analysis
1388 to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable
1389 time prior to the day on which the case is set for trial.

1390 **§ 4.1-600. Definitions.**

1391 As used in this subtitle, unless the context requires a different meaning:

1392 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is
1393 calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or marijuana seeds,
1394 including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor
1395 display, publication, or radio or television broadcast.

1396 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

1397 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

1398 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

1399 "Canopy" means the space used by a licensee to produce flowering marijuana plants, including areas
1400 between plants, pathways, walkways, and empty space between rows that allow for airflow, light, growth,
1401 access for watering, trimming, and other activities associated with marijuana cultivation. "Canopy" does not
1402 include space used for mother plants, clones, immature or nonflowering plants, processing, drying, curing,
1403 trimming, storage, offices, hallways, work areas, or other administrative and nonproduction uses. If
1404 flowering marijuana plants are cultivated using a shelving or other layered system, the surface area of each
1405 level shall be included for purposes of calculating canopy.

1406 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to
1407 be significantly difficult for a typical child ~~under~~ younger than five years of age to open and not to be
1408 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a
1409 single use or that contains multiple servings, resealable.

1410 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,
1411 trimming, *packaging*, or other similar ~~processing~~ *manufacturing* of marijuana for use or sale. "Cultivation" or
1412 "cultivate" does not include ~~manufacturing~~ *processing* or testing.

1413 "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~~ *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~~ *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 ~~46~~ 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: four members* appointed by the Governor and confirmed by the affirmative vote of a
1984 majority of those voting in each house of the General Assembly, *two members appointed by the Speaker of*
1985 *the House of Delegates, and one member appointed by the Senate Committee on Rules.* Each appointee shall
1986 (i) have been a resident of the Commonwealth for a period of at least three years next preceding his
1987 appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum,
1988 a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of
1989 demonstrated experience or expertise in the direct management, supervision, or control of a business or legal
1990 affairs. *Members shall be appointed in a manner that ensures expertise among the Board members in health,*
1991 *law, agriculture, finance, and law enforcement.* Appointees shall reflect the racial, ethnic, gender, and
1992 geographic diversity of the Commonwealth. Appointees shall be subject to a background check in accordance
1993 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~~ *appointing authority* for cause, including the improper
1999 use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,
2000 conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution
2001 or by the 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* 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 of 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 conviction under this section shall constitute a Class 1 misdemeanor.*

3048 *A third or subsequent conviction under this section shall constitute a Class 6 felony.*

3049 *C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not*
3050 *exceed two and one-half ounces or of an equivalent amount of marijuana products.*

3051 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;**
3052 **penalties.**

3053 *A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give, or*
3054 *distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or*
3055 *has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii)*
3056 *intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3057 *B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any*
3058 *marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the*
3059 *sale does not require the individual to present bona fide evidence of legal age indicating that the individual is*
3060 *21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to*
3061 *any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the*
3062 *United States or the District of Columbia, military identification card, United States passport or foreign*
3063 *government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any*
3064 *other valid government-issued identification card bearing the individual's photograph, signature, height,*
3065 *weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of*
3066 *the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes*
3067 *of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.*

3068 *C. No person shall be convicted of both subsections A and B for the same sale.*

3069 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
3070 **exceptions; penalties; forfeiture; treatment and education programs and services.**

3071 *A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104 shall*
3072 *consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana*
3073 *products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his*
3074 *agent when possession of marijuana or marijuana products is necessary in the performance of his duties.*
3075 *Such person may be prosecuted either in the county or city in which the marijuana or marijuana products*

3076 were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia
3077 of consumption of marijuana or marijuana products.

3078 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more
3079 than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if
3080 available, that in the opinion of the court best suits the needs of the accused.

3081 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates
3082 subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter
3083 a substance abuse treatment or education program or both, if available, that in the opinion of the court best
3084 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
3085 16.1-278.9, the court shall treat the juvenile as delinquent.

3086 D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to
3087 this section shall be provided by (i) a program licensed by the Department of Behavioral Health and
3088 Developmental Services or (ii) a similar program available through a facility or program operated by or
3089 under contract with the Department of Juvenile Justice or a locally operated court services unit or a program
3090 funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such
3091 substance abuse treatment or education program to which a person 18 years of age or older is ordered
3092 pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health
3093 and Developmental Services or (b) a program or services made available through a community-based
3094 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one
3095 has been established for the locality. When an offender is ordered to a local community-based probation
3096 services agency, the local community-based probation services agency shall be responsible for providing for
3097 services or referring the offender to education or treatment services as a condition of probation.

3098 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
3099 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of
3100 age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor
3101 vehicle; (ii) altered, fictitious, facsimile, or simulated document, including a birth certificate or student
3102 identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3
3103 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student
3104 identification card of another person in order to establish a false identification or false age for himself to
3105 consume, purchase, or attempt to consume or purchase marijuana or marijuana products. Any person
3106 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3107 *F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be*
3108 *deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3109 *G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local*
3110 *law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from*
3111 *an administrative penalty for a violation of § 4.1-1104.*

3112 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be sold;**
3113 **penalties; forfeiture.**

3114 *A. Any person who purchases marijuana or marijuana products for another person and at the time of such*
3115 *purchase knows or has reason to believe that the person for whom the marijuana or marijuana products were*
3116 *purchased was intoxicated is guilty of a Class 1 misdemeanor.*

3117 *B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of marijuana or*
3118 *marijuana products to, another person when he knows or has reason to know that such person is younger*
3119 *than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of*
3120 *marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1*
3121 *misdemeanor.*

3122 *C. Any marijuana or marijuana products purchased in violation of this section shall be deemed*
3123 *contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3124 **§ 4.1-1113. Maintaining common nuisances; penalties.**

3125 *A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every*
3126 *description where marijuana or marijuana products are manufactured, processed, stored, sold, dispensed,*
3127 *given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common*
3128 *nuisances.*

3129 *No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common*
3130 *nuisance.*

3131 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3132 *B. In addition, after due notice and an opportunity to be heard on the part of any owner or lessor not*
3133 *involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof of*
3134 *guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or*
3135 *any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of*
3136 *not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be*
3137 *used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the*

3138 same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1300.

3139 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
3140 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had
3141 the right, because of such unlawful use, to enter and repossess the property.

3142 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

3143 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
3144 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its
3145 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-
3146 enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
3147 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a
3148 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
3149 felony.

3150 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

3151 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any
3152 agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any
3153 hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold
3154 and conduct such hearing.

3155 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3156 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

3157 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
3158 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
3159 correctional center any marijuana or marijuana products.

3160 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3161 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

3162 A. No person shall separate plant resin by butane extraction or another method that utilizes a substance
3163 with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of
3164 any residential structure.

3165 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3166 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

3167 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in
3168 doing, or attempting to do, any of the things prohibited by this subtitle.

3169 *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find*
3170 *the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the*
3171 *defendant were solely guilty of such violation.*

3172 § 4.1-1121. Issuance of summonses for certain offenses; civil penalties.

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

3181 CHAPTER 12.

3182 *PROHIBITED PRACTICES BY LICENSEES.*

3183 § 4.1-1200. *Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.*

3184 *A. No licensee or any agent or employee of such licensee shall:*

3185 1. Cultivate, process, transport, sell, or test any marijuana or marijuana products other than that which
3186 such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

3187 2. Sell marijuana or marijuana products to any person other than a person to whom such license or this
3188 subtitle authorizes him to sell;

3189 3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or this
3190 subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle
3191 authorizes him to cultivate, process, transport, sell, or test;

3192 4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this
3193 subtitle;

3194 5. Keep or allow to be kept on the licensed premises, any marijuana or marijuana products other than
3195 that which he is authorized to cultivate, process, transport, sell, or test by such license or by this subtitle;

3196 6. Keep any marijuana or marijuana product other than in the container in which it was purchased by
3197 him; or

3198 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

3199 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3200 **§ 4.1-1201. Prohibited acts by employees of licensees; civil penalty.**

3201 A. In addition to the provisions of § 4.1-1200, no licensee, or his agent or employee shall use or consume
3202 any marijuana or marijuana products (i) on the licensed premises, except for certain sampling for quality
3203 control purposes in accordance with Board regulations or (ii) while on duty and in a position that is involved
3204 in the selling of marijuana or marijuana products to consumers.

3205 B. No licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

3206 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to
3207 exceed \$500. Upon a second or subsequent violation of this section, (i) if the person convicted is licensee, the
3208 Board shall revoke any license held by the licensee and (ii) if the person convicted is an agent of the licensee
3209 or employee, the Board shall require the licensee terminate such agent or employee's employment. Any such
3210 licensee, agent, or employee convicted of a second or subsequent violation of this section shall be prohibited
3211 from obtaining any marijuana establishment license and employment at a marijuana establishment.

3212 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a**
3213 **license; penalty.**

3214 Except as otherwise provided in § 4.1-807, no retail marijuana store licensee shall purchase for resale or
3215 sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from
3216 anyone other than a marijuana cultivation facility or marijuana processing facility.

3217 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3218 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by certain licensees; penalty.**

3219 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one
3220 licensed place of business to another licensed place of business unless (i) such licensed marijuana
3221 establishment is authorized to transfer marijuana or marijuana products from one licensed place of business
3222 to another licensed place of business and the transfer is completed by the licensee or an employee of the
3223 licensee or (ii) such transfer is completed by a marijuana transporter licensee.

3224 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3225 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

3226 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any
3227 licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
3228 decorations under circumstances prohibited by this title or Board regulations.

3229 Any person found by the Board to have violated this section shall be subject to a civil penalty as
3230 authorized in § 4.1-903.

3231 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to**
3232 **allow examination and inspection; penalty.**

3233 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1004; (ii) deliver, keep, and
3234 preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)
3235 allow such records, invoices, and accounts or his place of business to be examined and inspected in
3236 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
3237 misdemeanor.

3238 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may
3239 suspend or revoke any license of such licensee that was issued by the Authority.

3240 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

3241 A. No person shall make a sale taxable under § 4.1-1004 without paying all applicable taxes due. No
3242 retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or marijuana
3243 products on which such retailer has reason to know such tax has not been paid and may not be paid. Any
3244 person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3245 B. Any person who fails to file a return required for a tax due under § 4.1-1004 is subject to a civil
3246 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
3247 than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which
3248 the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

3249 C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of
3250 any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the amount of the proper tax
3251 due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall
3252 be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable
3253 sales to the Authority at 50 percent or less of the actual amount.

3254 D. If any check tendered for any amount due under § 4.1-1004 or this section is not paid by the bank on
3255 which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five
3256 days after the Authority gives it notice that such check was returned unpaid, the person that tendered the
3257 check is guilty of a violation of § 18.2-182.1.

3258 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner
3259 as if they were a part of the tax imposed.

3260 **§ 4.1-1300. Enjoining nuisances.**

3261 A. In addition to the penalties imposed by § 4.1-1113, the Board, its agents, the attorney for the

3262 Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113
3263 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

3264 *B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge*
3265 *or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products*
3266 *are cultivated, processed, stored, sold, dispensed, given away, or used in such house, building, or other place*
3267 *described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as*
3268 *the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their*
3269 *agents and employees, and any person connected with such house, building, or other place, and all persons*
3270 *whomsoever from cultivating, processing, storing, selling, dispensing, giving away, or using marijuana or*
3271 *marijuana products on such premises. The injunction shall also restrain all persons from removing any*
3272 *marijuana or marijuana products then on such premises until the further order of the court. If the court is*
3273 *satisfied that the material allegations of the bill are true, although the premises complained of may not then*
3274 *be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems*
3275 *proper. The injunction may be dissolved if a proper case is shown for dissolution.*

3276 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

3277 *A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products, all*
3278 *marijuana or marijuana products and materials used in their manufacture or processing, and all containers*
3279 *in which marijuana or marijuana products may be found that are kept, stored, possessed, or in any manner*
3280 *used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308*
3281 *that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid*
3282 *such person in the unlawful cultivation, manufacture, processing, transportation, or sale of marijuana or*
3283 *marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden*
3284 *or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity*
3285 *of any place where marijuana or marijuana products are being unlawfully manufactured or processed and*
3286 *where such animal or vehicle is being used to aid in the unlawful manufacture or processing, shall be deemed*
3287 *contraband and shall be forfeited to the Commonwealth.*

3288 *B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1303*
3289 *for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1*
3290 *(§ 19.2-386.1 et seq.) of Title 19.2.*

3291 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

3292 *A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and*

3293 *forfeited to the Commonwealth under this subtitle shall be as provided in this section.*

3294 *B. Whenever any article declared contraband under the provisions of this subtitle and required to be*
3295 *forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the*
3296 *enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it*
3297 *was found. In those cases where no person is found in possession of such articles, the return shall so state*
3298 *and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found,*
3299 *or if there is no door, then in any conspicuous place upon the premises.*

3300 *In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove*
3301 *such item to a place of safe storage from the place where seized, the seizing officer may destroy such item*
3302 *only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least*
3303 *one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction*
3304 *to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for*
3305 *seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining*
3306 *after such destruction. The report shall include a statement that, from facts within their own knowledge, the*
3307 *seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the*
3308 *unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such*
3309 *apparatus to a place of safe storage.*

3310 *In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture*
3311 *of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose*
3312 *of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other*
3313 *violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such*
3314 *witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The*
3315 *report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a*
3316 *statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever*
3317 *that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or*
3318 *manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.*

3319 *C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10*
3320 *days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such*
3321 *return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept,*
3322 *stored, or possessed in violation of this subtitle.*

3323 *At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the*

3324 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
3325 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
3326 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
3327 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
3328 determine the validity of such claim.

3329 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be
3330 turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a
3331 bar to any prosecution under any other provision of this subtitle.

3332 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this
3333 section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be
3334 paid into the Literary Fund.

3335 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in
3336 accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be
3337 impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the
3338 local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be
3339 made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and
3340 shall be kept in the offices of the Board.

3341 **§ 4.1-1304. Contraband marijuana or marijuana products.**

3342 Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the
3343 Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when
3344 other Board regulations applicable to such transportation have been complied with shall not be cause for
3345 deeming such marijuana or marijuana products contraband.

3346 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

3347 A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to
3348 the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating
3349 any Board regulation is guilty of a Class 1 misdemeanor.

3350 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is
3351 convicted of a violation of any provision of this subtitle may require such defendant to execute bond based
3352 upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that
3353 the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is
3354 required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged

3355 *by the court, provided that he shall not be confined for a period longer than six months. If any such bond*
3356 *required by a court is not given during the term of the court by which conviction is had, it may be given*
3357 *before any judge or before the clerk of such court.*

3358 *C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to*
3359 *continue the license of any person convicted of a violation of any provision of this subtitle.*

3360 *D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant*
3361 *has been notified that such a case is pending.*

3362 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

3363 *No person shall be excused from testifying or from producing books, papers, correspondence,*
3364 *memoranda, or other records for the Commonwealth as to any offense alleged to have been committed by*
3365 *another under this subtitle by reason of his testimony or other evidence tending to incriminate himself, but*
3366 *the testimony given and evidence so produced by such person on behalf of the Commonwealth when called*
3367 *for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned*
3368 *by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall*
3369 *be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies.*

3370 **§ 4.1-1307. Previous convictions.**

3371 *In any indictment, information, or warrant charging any person with a violation of any provision of this*
3372 *subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such*
3373 *person has been previously convicted of a violation of this subtitle.*

3374 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

3375 *In any prosecution for violations of this subtitle, where a sealed container is labeled as containing*
3376 *marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the*
3377 *container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana*
3378 *content of a container, whether sealed or not.*

3379 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

3380 *No action to recover the price of any marijuana or marijuana products sold in contravention of this*
3381 *subtitle may be maintained.*

3382 **§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.**

3383 *A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a*
3384 *synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500*
3385 *linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign*

3386 face upon which the advertisement is placed to the nearest edge of a building or structure located on the real
3387 property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or
3388 parochial school or an institution of higher education; (iii) a public or private playground or similar
3389 recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

3390 B. However, (i) if there is no building or structure on a playground or similar recreational facility, the
3391 measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the
3392 property line of such playground or similar recreational facility and (ii) if a public or private school providing
3393 grades K through 12 education is located across the road from a sign, the measurement shall be from the
3394 nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or
3395 structure located on such real property across the road.

3396 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a
3397 church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or
3398 an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a
3399 substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances
3400 change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the
3401 advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in
3402 no event more than one year from the date of the change in circumstances.

3403 D. The Board may grant a permit authorizing a variance from the distance requirements of this section
3404 upon a finding that the placement of the advertisement on a sign will not unduly expose children to
3405 advertising regarding marijuana, marijuana products, or any substance containing a synthetic
3406 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

3407 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included
3408 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its
3409 agents.

3410 F. *Any outdoor signs placed on the property of a marijuana establishment shall not (i) display imagery of*
3411 *marijuana or the use of marijuana or (ii) draw undue attention to the facility, but may be designed to assist*
3412 *consumers to find the marijuana establishment.*

3413 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising
3414 regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or

3415 synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned
3416 property. Nor shall this section be construed to authorize the erection of new billboard signs containing
3417 outdoor advertising that would be prohibited under state law or local ordinance.

3418 ~~G. H.~~ All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance
3419 containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with
3420 the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and
3421 regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor
3422 directional sign regarding marijuana, marijuana products, or any substance containing a synthetic
3423 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on
3424 highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program
3425 administered by the Virginia Department of Transportation or its agents.

3426 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

3427 *The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise*
3428 *provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling*
3429 *or distributing marijuana or a marijuana product to a consumer or to another licensee, to submit a*
3430 *representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total harvest or*
3431 *batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or marijuana product*
3432 *does not exceed the maximum level of allowable contamination for any contaminant that is injurious to*
3433 *health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i)*
3434 *establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research*
3435 *practices, including regulations relating to testing practices, methods, and standards; quality control*
3436 *analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation,*
3437 *and business practices; disposal of used, unused, and waste marijuana and marijuana products; and*
3438 *reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which*
3439 *marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the maximum*
3440 *level of allowable contamination for each contaminant.*

3441 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**
3442 **required destruction; random testing.**

3443 *A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another*
3444 *licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been*
3445 *tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing*

3446 has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of
3447 allowable contamination for any contaminant that is injurious to health and for which testing is required and
3448 (ii) the labeling on the marijuana or marijuana product is correct.

3449 B. Mandatory testing of marijuana and marijuana products under this section shall include testing for:

3450 1. Residual solvents;

3451 2. Heavy metals;

3452 3. Microbiological contaminants;

3453 4. Mycotoxins;

3454 5. Pesticide chemical residue; and

3455 6. Active ingredient analysis.

3456 Testing shall be performed on the final form in which the marijuana or marijuana product will be
3457 consumed.

3458 C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana
3459 or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility,
3460 and the results of the mandatory test.

3461 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested marijuana
3462 or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or contamination for
3463 any contaminant that is injurious to health and for which testing is required, the marijuana testing facility
3464 shall immediately quarantine, document, and properly destroy the marijuana or marijuana product and
3465 within seven days of completing the test shall notify the Board of the test results.

3466 A marijuana testing facility is not required to notify the Board of the results of any test:

3467 1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this section
3468 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable
3469 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing
3470 is required;

3471 2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and
3472 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the
3473 performance of the test that the testing is for research and development purposes only; or

3474 3. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.

3475 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee
3476 marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this

3477 subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

3478 1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle
3479 and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing
3480 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable
3481 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing
3482 is required;

3483 2. The mandatory testing process and the test results for the marijuana or marijuana product are
3484 documented in accordance with the requirements of this subtitle and all applicable regulations adopted
3485 pursuant to this subtitle;

3486 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
3487 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or
3488 to a consumer can be easily identified; and

3489 4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or
3490 alteration subsequent to the performance of the prior testing under subsection A.

3491 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana
3492 products whose testing samples indicate noncompliance with the health and safety standards required by this
3493 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can
3494 bring the marijuana or marijuana product into compliance with such required health and safety standards.

3495 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for the
3496 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

3497 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

3498 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be
3499 labeled with the following information:

3500 1. Identification of the type of marijuana or marijuana product;

3501 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and the
3502 retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered for
3503 sale, as applicable;

3504 3. A statement of the net weight of the marijuana or marijuana product;

3505 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,
3506 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid
3507 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains

3508 tetrahydrocannabinol, the total percentage and milligrams of tetrahydrocannabinol and cannabidiol included
3509 in an edible cannabis product or topical cannabis product, the number of milligrams of tetrahydrocannabinol
3510 and cannabidiol in each serving of the edible cannabis product or topical cannabis product, and the total
3511 percentage of tetrahydrocannabinol and cannabidiol included in the inhalable cannabis product; and (v) the
3512 potency of the tetrahydrocannabinol and other cannabinoid content;

3513 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

3514 6. Instructions on usage, including information regarding the amount of marijuana or marijuana product
3515 that constitutes a single serving;

3516 7. A recommended use by date or expiration date;

3517 8. For marijuana and marijuana products, the following statement, prominently displayed in bold print
3518 and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA
3519 AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND USED BY
3520 ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF
3521 MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING.
3522 MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE
3523 CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-604) FOR MORE
3524 INFORMATION.";

3525 9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;

3526 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total
3527 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the
3528 batch from which the substance originates; and

3529 11. Any other information required by Board regulations.

3530 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
3531 accordance with the provisions of this subtitle shall be packaged in the following manner:

3532 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and
3533 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-
3534 resistant, tamper-evident, and resealable packaging that is opaque;

3535 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
3536 component; and

3537 3. Packaging shall comply with any other requirements imposed by Board regulations.

3538 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in

3539 accordance with the provisions of this subtitle shall not:

3540 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be
3541 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying
3542 mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a
3543 product intended for human consumption other than the manufacturer, processor, packer, or distributor that
3544 did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or
3545 labeled in violation of a federal trademark law or regulation;

3546 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

3547 3. Be labeled or packaged in a manner that obscures identifying information on the label;

3548 4. Be labeled or packaged using a false or misleading label;

3549 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a human,
3550 animal, vehicle, or fruit; and

3551 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board
3552 regulations.

3553 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other marijuana**
3554 **products deemed applicable by the Authority; health and safety regulations.**

3555 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
3556 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a
3557 consumer:

3558 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

3559 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

3560 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within the
3561 product being homogeneous throughout the product or throughout each element of the product that has a
3562 cannabinoid content;

3563 4. Shall be processed and manufactured in a manner that results in the amount of marijuana concentrate
3564 within the product being homogeneous throughout the product or throughout each element of the product
3565 that contains marijuana concentrate;

3566 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

3567 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and shall
3568 not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

3569 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed

3570 to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v)
3571 are specifically designed to make the product appeal particularly to persons younger than 21 years of age;
3572 and

3573 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the
3574 trademarked product is used as a component of or ingredient in the edible marijuana product and the edible
3575 marijuana product is not advertised or described for sale as containing the trademarked product.

3576 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it
3577 deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee to a
3578 consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish
3579 mandatory health and safety standards applicable to the cultivation of marijuana, the processing and
3580 manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana products
3581 sold by a licensee to a consumer. Such regulations shall address:

3582 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana products
3583 by licensees;

3584 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing and
3585 manufacture of marijuana and marijuana products; and

3586 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.

3587 **§ 4.1-1407. Product registration requirements; approval, deviation, and modification.**

3588 A. A marijuana cultivation facility licensee, marijuana processing facility licensee, and microbusiness
3589 licensee shall register with the Board all marijuana or marijuana products it cultivates or processes.
3590 Applications for marijuana or marijuana product registration shall be submitted to the Board on a form
3591 prescribed by the Board.

3592 B. An application for marijuana or marijuana product registration shall include:

3593 1. The total tetrahydrocannabinol and total cannabidiol in such marijuana or marijuana product, based
3594 on laboratory testing results for the marijuana or marijuana product formulation;

3595 2. A product name;

3596 3. A proposed product package; and

3597 4. A proposed product label, which shall not be required to contain an expiration date at the time of
3598 application.

3599 C. The Board shall register all marijuana or marijuana products that meet testing, labeling, and
3600 packaging standards after an application for registration is submitted. If the marijuana or marijuana product

3601 *fails to meet such standards or the application was deficient, the Board shall notify the applicant of the*
3602 *specific reasons for such failure or deficiency.*

3603 *D. The following marijuana or marijuana product deviations from an approved marijuana or marijuana*
3604 *product registration shall be permitted without any requirement for a new marijuana or marijuana product*
3605 *registration or notice to the Board:*

3606 *1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a*
3607 *marijuana or marijuana product or dose thereof of up to 15 percent greater than or less than the*
3608 *concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved*
3609 *marijuana or marijuana product registration; however, for marijuana or a marijuana product with five*
3610 *milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be*
3611 *within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that marijuana*
3612 *or marijuana product;*

3613 *2. A variation in packaging, provided that the packaging is substantially similar to the approved*
3614 *packaging and otherwise complies with applicable packaging requirements;*

3615 *3. A deviation in labeling that reflects allowable deviations in total THC or total CBD or that makes a*
3616 *minor text, font, design, or similar modification, provided that the labeling is substantially similar to the*
3617 *approved labeling and otherwise complies with applicable labeling requirements; and*

3618 *4. Any other insignificant changes.*

3619 *F. A marijuana cultivation facility licensee, marijuana processing facility licensee, or microbusiness*
3620 *license may submit a request to modify an existing marijuana or marijuana product registration in the event*
3621 *of a marijuana or marijuana product deviation that is not set forth in subsection E. Upon receipt, the Board*
3622 *shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or*
3623 *require the licensee to provide additional information.*

3624 **§ 4.1-1500. Definitions.**

3625 *As used in this chapter, unless the context requires a different meaning:*

3626 *"CDFI" means a community development financial institution that provides credit and financial services*
3627 *for underserved communities.*

3628 *"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.*

3629 *"Funding" means loans and grants made from the Fund.*

3630 *"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.*

3631 *"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606*

3632 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined
3633 by the Board, a license to operate a marijuana establishment.

3634 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

3635 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
3636 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established
3637 on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,
3638 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.
3639 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining
3640 in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but
3641 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing *grants*,
3642 low-interest ~~and~~ *loans*, zero-interest loans, *and other supports and services* to ~~social equity qualified cannabis~~
3643 *impact* licensees in order to foster business ownership and economic growth within communities that have
3644 been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and
3645 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller
3646 upon written request signed by the Chief Executive Officer of the Authority.

3647 **§ 4.1-1502. Program requirements; guidelines for management of the Fund; selection of CDFI.**

3648 A. The Authority shall establish a Program to provide loans, *grants*, *and other supports and services* to
3649 ~~qualified social equity cannabis impact~~ licensees for the purpose of promoting business ownership and
3650 economic growth by communities that have been disproportionately impacted by the prohibition of cannabis.
3651 ~~The For the purposes of issuing loans, the Authority shall~~ may select and work in collaboration with a CDFI
3652 ~~to assist in administering the Program and carrying out the purposes of the Fund. The~~ If the Authority utilizes
3653 ~~a CDFI for issuing loans, the~~ CDFI selected by the Authority shall have (i) a statewide presence in Virginia,
3654 (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities,
3655 and (iv) the capability to dedicate sufficient staff to manage the Program. ~~Working with the selected CDFI,~~
3656 ~~the~~ The Authority shall establish monitoring and accountability mechanisms for ~~businesses impact~~ licensees
3657 receiving funding and shall report annually the number of businesses funded; the geographic distribution of
3658 the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

3659 B. The Program shall:

3660 1. Identify ~~social equity qualified cannabis impact~~ licensees who are in need of capital *or other supports*
3661 *and services* for the start-up of a cannabis business properly licensed pursuant to the provisions of this
3662 subtitle;

3663 2. Provide loans, *grants, and other supports and services* for the purposes described in subsection A and
3664 § 4.1-1501;

3665 3. Provide technical assistance; and

3666 4. Bring together community partners to sustain the Program.

3667 **§ 4.1-1600. Definitions.**

3668 As used in this chapter, unless the context requires a different meaning:

3669 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of
3670 the same chemovar of cannabis plant.

3671 "Cannabis dispensing facility" means a *dual-use* facility that (i) has obtained a permit from the Board
3672 pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; ~~and~~ (iii) dispenses
3673 cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient
3674 is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; *and* (iv)
3675 *holds and exercises all privileges to operate as a retail marijuana store pursuant to § 4.1-802 on the*
3676 *premises of the cannabis dispensing facility..*

3677 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial
3678 hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to
3679 § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this
3680 chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include
3681 industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or
3682 federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp
3683 processor and acquired and formulated by a pharmaceutical processor.

3684 "Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is
3685 produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing
3686 facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more
3687 than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

3688 "*Delivery agent*" means an independent contractor that transports or delivers usable cannabis, botanical
3689 cannabis, cannabis oil, or cannabis products on behalf of a pharmaceutical processor or cannabis
3690 dispensing facility.

3691 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or
3692 home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health
3693 services, private provider licensed by the Department of Behavioral Health and Developmental Services

3694 pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant
3695 to § 63.2-1701, or adult day center licensed pursuant to § 63.2-1701.

3696 "Dispense" means the same as that term is defined in § 54.1-3300.

3697 "*Edible cannabis product*" means a cannabis product that is intended to be ingested and is (i) formulated
3698 with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a
3699 pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant
3700 with testing requirements.

3701 "*Inhalable cannabis product*" means a cannabis product that is intended to be inhaled and is (i)
3702 formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by
3703 a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv)
3704 compliant with testing requirements.

3705 "Pharmaceutical processor" means a *dual-use* facility that (i) has obtained a permit from the Board
3706 pursuant to § 4.1-1602 ~~and~~; (ii) cultivates Cannabis plants intended ~~only~~ for the production of cannabis oil,
3707 botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a
3708 patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable
3709 adult as defined in § 18.2-369, such patient's parent or legal guardian; *and (iii) holds and exercises all*
3710 *privileges to operate as a marijuana cultivation facility pursuant to § 4.1-800, marijuana processing facility*
3711 *pursuant to § 4.1-801, and retail marijuana store pursuant to § 4.1-802.*

3712 "Pharmacist" means the same as that term is defined in § 54.1-3300.

3713 "Pharmacy intern" means the same as that term is defined in § 54.1-3300.

3714 "Pharmacy technician" means the same as that term is defined in § 54.1-3300.

3715 "Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

3716 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a
3717 physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse jointly
3718 licensed by the Boards of Nursing and Medicine.

3719 "Registered agent" means an individual designated by a patient who has been issued a written
3720 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such
3721 patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

3722 "*Topical cannabis product*" means a cannabis product that is intended to be applied topically to the skin
3723 and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor
3724 and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and

3725 (iv) *compliant with testing requirements.*

3726 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been
3727 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from
3728 the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks;
3729 or (iii) oil or cake made from the seeds of the plant.

3730 **§ 4.1-1601. Certification for use of cannabis for treatment.**

3731 A. A practitioner in the course of his professional practice may issue a written certification for the use of
3732 cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
3733 determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment
3734 to determine the manner and frequency of patient care and evaluation and may employ the use of
3735 telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time
3736 interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is
3737 on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor
3738 shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines
3739 it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification
3740 shall specifically authorize such dispensing. If not specifically included on the initial written certification,
3741 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the
3742 time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept,
3743 solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any
3744 person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia,
3745 excluding information on products or educational materials on the benefits and risks of cannabis products.

3746 B. The written certification shall be on a form provided by the Authority. Such written certification shall
3747 contain the name, address, and telephone number of the practitioner, the name and address of the patient
3748 issued the written certification, the date on which the written certification was made, and the signature or
3749 authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A
3750 shall expire one year after its issuance unless the practitioner provides in such written certification an earlier
3751 expiration. A written certification shall not be issued to a patient by more than one practitioner during any
3752 given time period.

3753 C. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.)* or § 18.2-248 ~~or 18.2-248.1~~

3754 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the
3755 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to
3756 subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from
3757 sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise
3758 violating the applicable standard of care for evaluating or treating medical conditions.

3759 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold
3760 sufficient education and training to exercise appropriate professional judgment in the certification of patients;
3761 (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or
3762 registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical
3763 processor or cannabis product; (iii) shall not issue a certification to himself or his family members,
3764 employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those
3765 approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a
3766 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to
3767 whom a practitioner may issue a written certification. The Board may report information to the applicable
3768 licensing board on unusual patterns of certifications issued by a practitioner.

3769 E. No patient shall be required to physically present the written certification after the initial dispensing by
3770 any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that
3771 the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written
3772 certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a
3773 monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing
3774 facility to the Authority.

3775 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's
3776 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of
3777 receiving cannabis products pursuant to a valid written certification. Such designated individual shall register
3778 with the Board unless the individual's name listed on the patient's written certification. An individual may, on
3779 the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's
3780 written certification upon the patient's request. The Board may set a limit on the number of patients for whom
3781 any individual is authorized to act as a registered agent.

3782 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a
3783 designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or

3784 registered by a health regulatory board and who is authorized to possess, distribute, or administer medications
3785 may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the
3786 patient or resident and may assist in the administration of the cannabis product to the patient or resident as
3787 necessary.

3788 H. Information obtained under the patient certification or agent registration process shall be confidential
3789 and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700
3790 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the
3791 House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement
3792 for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii)
3793 licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug
3794 therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or
3795 cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only
3796 with respect to information related to such patient.

3797 **§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

3798 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first
3799 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the
3800 Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's
3801 dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general
3802 requirements for such application. *Effective November 1, 2026, no previously issued permit shall remain*
3803 *valid unless the pharmaceutical processor has received dual-use approval from the Board pursuant to*
3804 *§ 4.1-1602.1.*

3805 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of
3806 permits that the Board may issue or renew in any year is limited to one *permit in each health service area*
3807 *established by the Board of Health, which shall govern the operations of the pharmaceutical processor and up*
3808 *to five cannabis dispensing facilities for in each health service area established by the Board of Health.*
3809 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and
3810 cannabis dispensing facility. *In addition to the provisions of this chapter, unless otherwise provided by law or*
3811 *regulation, a pharmaceutical processor shall hold the privileges of and be subject to all laws and regulations*
3812 *applicable to a marijuana cultivation facility, marijuana processing facility, and retail marijuana store and a*
3813 *cannabis dispensing facility shall hold the privileges of and be subject to all laws and regulations applicable*
3814 *to a retail marijuana store.*

3815 C. The Board shall adopt regulations establishing health, safety, and security requirements for
3816 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for
3817 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment
3818 and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently
3819 than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis
3820 products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in
3821 § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide
3822 that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol,
3823 except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of
3824 usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors,
3825 between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing
3826 facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and
3827 hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the
3828 laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert
3829 product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical
3830 processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a
3831 written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into
3832 cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical
3833 processor's products and operations, which shall not limit the pharmaceutical processor from the provision of
3834 educational material to practitioners who issue written certifications and patients. The Board shall also adopt
3835 regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely
3836 cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste,
3837 and (c) a process for registering cannabis products.

3838 D. The Board shall require pharmaceutical processors, after processing and before dispensing any
3839 cannabis products, to make a sample available from each batch of cannabis product for testing by an
3840 independent laboratory that is located in *the* Commonwealth and meets Board requirements. A valid sample
3841 size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,
3842 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing
3843 or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis
3844 oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from
3845 each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for

analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing, which shall not be more stringent than initial testing prior to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of 12 months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than 12 months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an expiration date longer than 12 months from the date of the cannabis product registration approval unless supported by stability testing.

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

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

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

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be

3876 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau
3877 of Investigation for the purpose of obtaining criminal history record information regarding the applicant's
3878 material owners. The cost of fingerprinting and the criminal history record search shall be paid by the
3879 applicant. The Central Criminal Records Exchange shall forward the results of the criminal history
3880 background check to the Board or its designee, which shall be a governmental entity.

3881 H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees
3882 and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery
3883 agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

3884 I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
3885 individuals who may have less than one year of experience (i) to perform cultivation-related duties under the
3886 supervision of an individual who has received a degree in a field related to the cultivation of plants or a
3887 certification recognized by the Board or who has at least one year of experience cultivating plants, (ii) to
3888 perform extraction-related duties under the supervision of an individual who has a degree in chemistry or
3889 pharmacology or at least one year of experience extracting chemicals from plants, (iii) to perform duties at
3890 the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician,
3891 and (iv) to serve as pharmacy technician trainees.

3892 J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five
3893 cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing
3894 of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor
3895 permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the
3896 pharmaceutical processor may cultivate cannabis plants. *For purposes of a pharmaceutical processor's*
3897 *operations as a marijuana cultivation facility pursuant to § 4.1-800, the pharmaceutical processor shall only*
3898 *cultivate cannabis indoors with a canopy that does not exceed a total of 70,000 square feet, regardless of*
3899 *whether such canopy is utilized on the premises of the pharmaceutical processor or collectively on the*
3900 *premises of the pharmaceutical processor and the additional cultivation location. Each cannabis dispensing*
3901 *facility and the additional cultivation location shall be located within the same health service area as the*
3902 *pharmaceutical processor.* Each cannabis dispensing facility and the additional cultivation location shall be
3903 located within the same health service area as the pharmaceutical processor.

3904 K. No person who has been convicted of a felony under the laws of the Commonwealth or another
3905 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or

3906 cannabis dispensing facility.

3907 L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment
3908 drug screening and regular, ongoing, random drug screening of employees.

3909 M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility
3910 shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees
3911 who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than
3912 six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's
3913 dispensing area or cannabis dispensing facility.

3914 N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor
3915 industrial hemp extracts that (i) are grown and processed in Virginia in compliance with state or federal law,
3916 and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract"
3917 in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A
3918 pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis
3919 product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the
3920 same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by
3921 a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products.
3922 The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical
3923 processor before industrial hemp extracts may be acquired.

3924 O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily
3925 ~~discernable~~ *discernible*, and uniform among different products and brands. Pharmaceutical processors shall
3926 affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the
3927 pharmaceutical processor's website, that includes:

3928 1. The product name;

3929 2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives,
3930 flavorings, sweeteners, and carrier oils;

3931 3. The total ~~percentage and~~ milligrams of tetrahydrocannabinol and cannabidiol included in the *edible*
3932 *cannabis product or topical cannabis product and*, the number of milligrams of tetrahydrocannabinol and
3933 cannabidiol in each serving *of the edible cannabis product or topical cannabis product, and the total*
3934 *percentage of tetrahydrocannabinol and cannabidiol included in the inhalable cannabis product;*

3935 4. The amount of product that constitutes a single serving and the amount recommended for use by the

3936 practitioner or dispensing pharmacist;

3937 5. Information regarding the product's purpose and detailed usage directions;

3938 6. Child and safety warnings in a conspicuous font; and

3939 7. Such other information required by the Board.

3940 P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of
3941 cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no
3942 tetrahydrocannabinol.

3943 Q. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000
3944 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any
3945 regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall
3946 publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the
3947 Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the
3948 proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone
3949 number of the agency contact person responsible for receiving public comments. Such notice shall be made at
3950 least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The
3951 legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final
3952 adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public
3953 comments received for any regulation adopted pursuant to this section.

3954 **§ 4.1-1602.1. Dual-use privileges.**

3955 *Upon application to the Board, payment of a one-time conversion fee by a pharmaceutical processor, and*
3956 *verification by the Board that the applicable requirements are met, a pharmaceutical processor and its*
3957 *cannabis dispensing facilities may exercise dual-use privileges as set forth in this chapter.*

3958 **§ 4.1-1603. Dispensing cannabis products; report.**

3959 A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products
3960 only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued
3961 a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a
3962 vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or
3963 temporarily resides in Virginia. *A pharmaceutical processor or cannabis dispensing facility may dispense or*
3964 *deliver cannabis products to such patient or such patient's registered agent, parent, or legal guardian at any*
3965 *residence, including a temporary residence, or business. Notwithstanding the foregoing, a pharmaceutical*
3966 *processor or cannabis dispensing facility shall not dispense or deliver cannabis products to (a) any military*

base, child day center, school, or correctional facility; (b) the State Capitol; (c) marine terminal under the supervision of the Virginia Port Authority; or (d) any public gathering places, including sporting events, festivals, fairs, races, concerts, and terminals of public transportation companies. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

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

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

3998 D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15
3999 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis
4000 product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such
4001 concentration in any cannabis product on site is within such range. A pharmaceutical processor producing
4002 cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date
4003 of longer than 12 months.

4004 *E. All transportation or delivery of usable cannabis, botanical cannabis, cannabis oil, or cannabis*
4005 *products, whether by an employee or delivery agent, shall comply with the provisions of this subtitle and*
4006 *Board regulations, including those related to background checks, proof of identification, vehicle security,*
4007 *GPS tracking, secure communications, and recordkeeping. The Board may suspend or revoke the privileges*
4008 *of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products*
4009 *for failure of such employee or delivery agent to comply with the provisions of this subtitle or Board*
4010 *regulations.*

4011 **§ 4.1-1604. Criminal liability; exceptions.**

4012 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted
4013 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
4014 marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty,
4015 denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such
4016 agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis
4017 products in accordance with the provisions of this chapter and Board regulations or (ii) possessed,
4018 manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis
4019 industry standards in accordance with the provisions of this chapter and Board regulations.

4020 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
4021 **operation.**

4022 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or
4023 waters of ~~this the~~ Commonwealth, while under the influence of intoxicating liquor or of any narcotic or
4024 *marijuana* or any habit-forming drugs ~~shall be~~ *is* guilty of a felony and shall be confined in a state
4025 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying
4026 the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both such fine
4027 and imprisonment.

4028 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or

4029 waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or
4030 safety of others, or without due caution and circumspection and in a manner so as to endanger any person or
4031 property, ~~shall be~~ is guilty of a misdemeanor.

4032 **§ 6.2-108. Financial services for licensed marijuana establishments.**

4033 A. As used in this section:

4034 “Business associate” means a person that provides goods or services to, or receives goods or services
4035 from, a licensed marijuana establishment in connection with lawful marijuana-related activities.

4036 “Financial service” includes deposit accounts, loans, lines of credit, payment processing, funds
4037 transmission, cash management services, and other services customarily provided by a bank or credit union
4038 in the ordinary course of business.

4039 “Licensed” and “marijuana establishment” have the same meanings as provided in § 4.1-600.

4040 B. A bank or credit union may provide financial services to a licensed marijuana establishment or its
4041 business associates, subject to applicable state and federal law.

4042 C. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the
4043 officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state
4044 law or regulation solely for providing such a financial service or for further investing any income derived
4045 from such a financial service.

4046 D. Nothing in this section shall require a bank or credit union to provide financial services to a licensed
4047 marijuana establishment.

4048 E. No agency or political subdivision of the Commonwealth shall penalize, prohibit, or take adverse
4049 supervisory or regulatory action against a bank or credit union solely because the bank or credit union
4050 provides financial services to a licensed marijuana establishment.

4051 F. A bank or credit union, and its officers, directors, and employees, shall not be subject to criminal
4052 prosecution, civil liability, or administrative sanction under the laws of the Commonwealth solely for
4053 providing financial services to a licensed marijuana establishment in compliance with this section.

4054 G. The legal interest of a bank or credit union in collateral for a loan or other financial service provided
4055 to a licensed marijuana establishment shall not be subject to civil or criminal forfeiture under the laws of the
4056 Commonwealth solely because the collateral is associated with a licensed marijuana establishment.

4057 H. Proceeds derived from a transaction involving a licensed marijuana establishment shall not be
4058 considered proceeds of unlawful activity under the laws of the Commonwealth solely because the transaction
4059 involves a licensed marijuana establishment.

4060 *I. The protections provided by this section apply where a bank or credit union has exercised reasonable*
4061 *due diligence to confirm that the marijuana establishment is duly licensed and operating in compliance with*
4062 *applicable Virginia law.*

4063 *J. The protections of this section extend to financial services provided to a business associate of a licensed*
4064 *marijuana establishment where such services are provided in connection with lawful marijuana-related*
4065 *activities.*

4066 **§ 9.1-1101. Powers and duties of the Department.**

4067 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of
4068 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and
4069 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant
4070 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any
4071 private police department that has been designated as a criminal justice agency by the Department of
4072 Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The
4073 Department shall provide such services to any federal investigatory agency within available resources.

4074 B. The Department shall:

4075 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth
4076 and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as
4077 needed;

4078 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of
4079 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

4080 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six
4081 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

4082 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*
4083 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.*
4084 *The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider*
4085 *the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the*
4086 *total available THC derived from the sum of the THC and THC-A content.*

4087 C. The Department shall have the power and duty to:

4088 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes
4089 of this chapter;

4090 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its
4091 duties and execution of its powers under this chapter including, but not limited to, contracts with the United
4092 States, units of general local government or combinations thereof in Virginia or other states, and with
4093 agencies and departments of the Commonwealth; and

4094 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

4095 D. The Director may appoint and employ a deputy director and such other personnel as are needed to
4096 carry out the duties and responsibilities conferred by this chapter.

4097 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**
4098 **prepayment of local ordinances.**

4099 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,
4100 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions
4101 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated
4102 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local
4103 ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is
4104 listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance
4105 whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2
4106 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in
4107 § 46.2-878.3.

4108 Such infractions shall not include:

4109 1. Indictable offenses;

4110 2. [Repealed.]

4111 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic
4112 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,
4113 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his
4114 custody or control;

4115 4. Reckless driving;

4116 5. Leaving the scene of an accident;

4117 6. Driving while under suspension or revocation of driving privileges;

4118 7. Driving without being licensed to drive.

4119 8. [Repealed.]

4120 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a
4121 magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a
4122 plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,
4123 prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of
4124 guilty will have the same force and effect as a judgment of court, and that the record of conviction will be
4125 sent to the Commissioner of the Department of Motor Vehicles.

4126 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a
4127 schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,
4128 designating each infraction specifically. The schedule, which may from time to time be amended,
4129 supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule
4130 shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at
4131 the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted
4132 in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this
4133 Code or any rules or regulations promulgated thereunder.

4134 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and
4135 fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such
4136 ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit
4137 may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for
4138 prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be
4139 forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The
4140 schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its
4141 application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the
4142 discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
4143 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
4144 provisions of this Code or any rules or regulations promulgated thereunder.

4145 **§ 16.1-260. Intake; petition; investigation.**

4146 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a
4147 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be
4148 as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of

4149 Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing
4150 of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the
4151 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated
4152 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and
4153 motions relating to the establishment, modification, or enforcement of support on forms approved by the
4154 Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of
4155 social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of
4156 Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish
4157 paternity, motions to establish or modify support, motions to amend or review an order, and motions for a
4158 rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except
4159 petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of
4160 supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the
4161 local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of
4162 Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake
4163 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving
4164 child support services or public assistance. No individual who is receiving support services or public
4165 assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for
4166 support of a child. If the petitioner is seeking or receiving child support services or public assistance, the
4167 clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the
4168 court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,
4169 the intake officer shall provide the petitioner information on the possible availability of medical assistance
4170 through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored
4171 coverage through the Department of Medical Assistance Services.

4172 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake
4173 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and
4174 audio communication is used, an intake officer may exercise all powers conferred by law. All
4175 communications and proceedings shall be conducted in the same manner as if the appearance were in person,
4176 and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed
4177 by the officer or person to whom sent, and returned in the same manner, and with the same force, effect,
4178 authority, and liability as an original document. All signatures thereon shall be treated as original signatures.
4179 Any two-way electronic video and audio communication system used for an appearance shall meet the

4180 standards as set forth in subsection B of § 19.2-3.1.

4181 When the court service unit of any court receives a complaint alleging facts which may be sufficient to
4182 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed
4183 informally to make such adjustment as is practicable without the filing of a petition or may authorize a
4184 petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause
4185 for the issuance of the petition.

4186 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of
4187 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or
4188 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would
4189 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony
4190 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a
4191 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded
4192 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if
4193 committed by an adult.

4194 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the
4195 attendance officer has provided documentation to the intake officer that the relevant school division has
4196 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The
4197 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided
4198 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of
4199 supervision on more than two occasions for failure to comply with compulsory school attendance as provided
4200 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three
4201 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person
4202 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may
4203 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco
4204 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and
4205 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided
4206 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of
4207 developing a truancy plan using an interagency interdisciplinary team approach. The team may include
4208 qualified personnel who are reasonably available from the appropriate department of social services,
4209 community services board, local school division, court service unit, and other appropriate and available
4210 public and private agencies and may be the family assessment and planning team established pursuant to

4211 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or
4212 the truancy program, then the intake officer shall file the petition.

4213 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in
4214 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the
4215 juvenile, which may include restitution, the performance of community service, or on a complaint alleging
4216 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor
4217 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth
4218 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the
4219 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake
4220 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,
4221 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint
4222 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to
4223 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice
4224 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice
4225 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's
4226 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

4227 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
4228 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,
4229 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,
4230 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or
4231 other services which are required by law, (iv) family abuse has occurred and a protective order is being
4232 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
4233 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either
4234 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake
4235 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of
4236 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the
4237 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be
4238 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.
4239 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,
4240 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of
4241 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective

4242 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written
4243 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders
4244 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

4245 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
4246 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need
4247 of supervision have utilized or attempted to utilize treatment and services available in the community and
4248 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer
4249 determines that the parties have not attempted to utilize available treatment or services or have not exhausted
4250 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to
4251 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or
4252 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a
4253 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

4254 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
4255 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a
4256 finding that no probable cause exists, the complainant shall be notified in writing at that time of the
4257 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall
4258 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that
4259 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant
4260 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy
4261 of the written notification upon application to the magistrate. If a magistrate determines that probable cause
4262 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant
4263 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition
4264 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or
4265 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
4266 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a
4267 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his
4268 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by
4269 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a
4270 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final
4271 and the complainant shall not have a right to apply to a magistrate for a warrant.

4272 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake

4273 officer shall accept and file a petition founded upon the warrant.

4274 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which
4275 alleges facts of an offense which would be a felony if committed by an adult.

4276 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report
4277 with the division superintendent of the school division in which any student who is the subject of a petition
4278 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a
4279 crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to
4280 be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the
4281 petition and the nature of the offense, if the violation involves:

4282 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et
4283 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

4284 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

4285 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
4286 18.2;

4287 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

4288 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
4289 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

4290 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11 (§ 18.2-247 4.1-1100 et~~
4291 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~

4292 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

4293 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

4294 9. Robbery pursuant to § 18.2-58;

4295 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

4296 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

4297 12. An act of violence by a mob pursuant to § 18.2-42.1;

4298 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

4299 14. A threat pursuant to § 18.2-60.

4300 The failure to provide information regarding the school in which the student who is the subject of the
4301 petition may be enrolled shall not be grounds for refusing to file a petition.

4302 The information provided to a division superintendent pursuant to this section may be disclosed only as
4303 provided in § 16.1-305.2.

4304 H. The filing of a petition shall not be necessary:

4305 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other
4306 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any
4307 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the
4308 court may proceed on a summons issued by the officer investigating the violation in the same manner as
4309 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene
4310 of the accident or at any other location where a juvenile who is involved in such an accident may be located,
4311 proceed on a summons in lieu of filing a petition.

4312 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of
4313 § 16.1-241.

4314 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
4315 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal
4316 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal
4317 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal
4318 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner
4319 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
4320 § 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
4321 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or
4322 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize
4323 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the
4324 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.
4325 When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to have the
4326 charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that
4327 such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such
4328 summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also serve upon the juvenile
4329 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and
4330 make return of such service to the court. If the officer fails to make such service or return, the court shall
4331 dismiss the summons without prejudice.

4332 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would
4333 be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer
4334 proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same

4335 manner as provided by law for adults provided that notice of the summons to appear is mailed by the
4336 investigating officer within five days of the issuance of the summons to a parent or legal guardian of the
4337 juvenile.

4338 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the
4339 jurisdiction granted it in § 16.1-241.

4340 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
4341 **statement.**

4342 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
4343 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of
4344 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
4345 violations, the court before final disposition thereof may require an investigation, which (i) shall include a
4346 drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a
4347 social history of the physical, mental, and social conditions, including an assessment of any affiliation with a
4348 criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances
4349 surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an
4350 act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a
4351 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
4352 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a*
4353 *violation of § 4.1-1105*, the court shall order the juvenile to undergo a drug screening. If the drug screening
4354 indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by
4355 a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile
4356 Justice or by a locally operated court services unit or by an individual employed by or currently under
4357 contract to such agencies and who is specifically trained to conduct such assessments under the supervision
4358 of such counselor.

4359 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim,
4360 or may in its discretion, require the preparation of a victim impact statement in accordance with the
4361 provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical,
4362 psychological, or economic injury as a result of the violation of law.

4363 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**
4364 **truancy.**

4365 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time

4366 of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of
4367 any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation
4368 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
4369 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*
4370 *of § 4.1-1105*; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or
4371 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of
4372 § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town;
4373 (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or
4374 (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as
4375 provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty
4376 authorized by this section, if the offense involves a violation designated under clause (i) and the child was
4377 transporting a person 17 years of age or younger, the court shall impose the additional fine and order
4378 community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i),
4379 (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches
4380 the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile
4381 reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a
4382 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six
4383 months unless the offense is committed by a child under the age of 16 years and three months, in which case
4384 the child's ability to apply for a driver's license shall be delayed for a period of six months following the date
4385 he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v)
4386 or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a
4387 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the
4388 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the
4389 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions
4390 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of
4391 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession
4392 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
4393 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
4394 which case the denial of driving privileges shall be for a period of two years unless the offense is committed
4395 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
4396 license shall be delayed for a period of two years following the date he reaches the age of 16 and three

4397 months.

4398 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and
4399 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
4400 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16
4401 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not
4402 less than 30 days following the date he reaches the age of 16 and three months.

4403 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a
4404 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability
4405 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three
4406 months, as may be appropriate.

4407 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of
4408 § 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
4409 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or
4410 until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

4411 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
4412 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the
4413 physical custody of the court during any period of license denial.

4414 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
4415 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
4416 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
4417 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record
4418 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other
4419 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
4420 results in an adjudication of guilt pursuant to subsection F.

4421 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's
4422 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the
4423 order of denial under subsection E.

4424 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
4425 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
4426 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set

4427 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)
4428 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such
4429 terms and conditions as the court may set forth.

4430 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted
4431 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the
4432 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection
4433 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to
4434 and from home and school when school-provided transportation is available and no restricted license shall be
4435 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,
4436 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding
4437 by the court of failure to comply with school attendance and meeting requirements as provided in subsection
4438 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection
4439 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be
4440 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information
4441 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under
4442 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any
4443 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

4444 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any
4445 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.
4446 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one
4447 year after its issuance.

4448 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
4449 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
4450 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if
4451 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge
4452 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be
4453 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying
4454 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in
4455 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)
4456 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
4457 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second

violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 18.2-46.1. Definitions.

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

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

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

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-95, 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-287.4, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101; ~~or 18.2-248; or~~ ~~18.2-248.1~~ 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

4489 commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to
4490 imitate; or

4491 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or
4492 depressant of the central nervous system and which is not commonly used or recognized for use in that
4493 particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,
4494 promoted, or sold as permitted by the U.S. Food and Drug Administration.

4495 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
4496 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
4497 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes
4498 rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the
4499 drug and its appearance in overall finished dosage form, promotional materials or representations, oral or
4500 written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the
4501 public.

4502 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,
4503 whether growing or not; its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or
4504 preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana"
4505 does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the
4506 seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus
4507 *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to
4508 subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a
4509 person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.
4510 Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in
4511 § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such
4512 isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the
4513 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

4514 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,
4515 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade
4516 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,
4517 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so
4518 manufacture, process, pack or distribute such drug.

4519 ~~F.~~ E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol,
4520 including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of
4521 isomers is possible within the specific chemical designation and any preparation, mixture, or substance
4522 containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this
4523 definition, "isomer" means the optical, position, and geometric isomers.

4524 ~~G.~~ F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
4525 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
4526 tetrahydrocannabinolic acid.

4527 ~~H.~~ G. The Department of Forensic Science shall determine the proper methods for detecting the
4528 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100 et
4529 seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or other
4530 equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
4531 tetrahydrocannabinol.

4532 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture,**
4533 **sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;**
4534 **penalties.**

4535 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for any
4536 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a
4537 controlled substance or an imitation controlled substance.

4538 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
4539 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
4540 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever
4541 included an exchange of or a demand for money or other property as consideration, and, if so, whether the
4542 amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet
4543 or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule,
4544 tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter
4545 substances of like chemical composition sell.

4546 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled
4547 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more
4548 than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is

4549 alleged in the warrant, indictment, or information that the person has been before convicted of such an
4550 offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if
4551 committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in
4552 the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing
4553 the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of
4554 which shall be a mandatory minimum term of imprisonment to be served consecutively with any other
4555 sentence, and he shall be fined not more than \$500,000.

4556 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the
4557 warrant, indictment or information that he has been before convicted of two or more such offenses or of
4558 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the
4559 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,
4560 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10
4561 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively
4562 with any other sentence, and he shall be fined not more than \$500,000.

4563 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
4564 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and
4565 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment
4566 to be served consecutively with any other sentence:

- 4567 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 4568 2. 500 grams or more of a mixture or substance containing a detectable amount of:
- 4569 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
4570 derivatives of ecgonine or their salts have been removed;
- 4571 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 4572 c. Cocaine base;
- 4573 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 4574 e. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to
4575 in subdivisions 2a through 2d; or
- 4576 3. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of
4577 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its

4578 isomers.

4579 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not
4580 be applicable if the court finds that:

4581 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

4582 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous
4583 weapon in connection with the offense or induce another participant in the offense to do so;

4584 c. The offense did not result in death or serious bodily injury to any person;

4585 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not
4586 engaged in a continuing criminal enterprise as defined in subsection I; and

4587 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
4588 Commonwealth all information and evidence the person has concerning the offense or offenses that were part
4589 of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or
4590 useful other information to provide or that the Commonwealth already is aware of the information shall not
4591 preclude a determination by the court that the defendant has complied with this requirement.

4592 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,
4593 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable
4594 amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned
4595 for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of
4596 such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be
4597 sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than
4598 \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged
4599 in the warrant, indictment, or information that he has been previously convicted of two or more such offenses
4600 or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in
4601 the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,
4602 indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10
4603 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively
4604 with any other sentence and he shall be fined not more than \$500,000.

4605 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be
4606 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner

4607 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine
4608 production. This restitution shall include the person's or his estate's estimated or actual expenses associated
4609 with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or
4610 otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or
4611 in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup
4612 Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup,
4613 removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum
4614 of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or
4615 repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant
4616 to § 32.1-11.7.

4617 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled
4618 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate
4619 in a community correctional facility, local correctional facility or state correctional facility as defined in
4620 § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any
4621 consideration received or expected nor to induce the recipient or intended recipient of the controlled
4622 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty of a
4623 Class 5 felony.

4624 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription
4625 of a person authorized under this article to issue the same, which prescription has not been received in writing
4626 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the
4627 pharmacist within one week of the time of filling the same, or if such violation consists of a request by such
4628 authorized person for the filling by a pharmacist of a prescription which has not been received in writing by
4629 the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the
4630 pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

4631 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III
4632 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ is
4633 guilty of a Class 5 felony.

4634 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV
4635 ~~shall be~~ is guilty of a Class 6 felony.

4636 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a
4637 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,

4638 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate
4639 in a community correctional facility, local correctional facility or state correctional facility as defined in
4640 § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any
4641 consideration received or expected nor to induce the recipient or intended recipient of the controlled
4642 substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1
4643 misdemeanor.

4644 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or
4645 Schedule VI or an imitation controlled substance ~~which~~ *that* imitates a controlled substance classified in
4646 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

4647 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~ *that*
4648 imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In
4649 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the
4650 defendant believed the imitation controlled substance to actually be a controlled substance.

4651 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
4652 give or distribute the following:

- 4653 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 4654 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - 4655 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
4656 derivatives of ecgonine or their salts have been removed;
 - 4657 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 4658 c. Cocaine base;
 - 4659 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 4660 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances
4661 referred to in subdivisions a through d; or

4662 3. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~

4663 4. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more
4664 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of
4665 its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment
4666 for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum
4667 sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an
4668 offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of

4669 violence or possess a firearm or other dangerous weapon in connection with the offense or induce another
4670 participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any
4671 person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was
4672 not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later
4673 than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all
4674 information and evidence the person has concerning the offense or offenses that were part of the same course
4675 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other
4676 information to provide or that the Commonwealth already is aware of the information shall not preclude a
4677 determination by the court that the defendant has complied with this requirement.

4678 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of
4679 a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at least \$100,000
4680 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,
4681 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,
4682 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,
4683 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any
4684 12-month period of its existence:

4685 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable
4686 amount of heroin;

4687 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
4688 amount of:

4689 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
4690 derivatives of ecgonine or their salts have been removed;

4691 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4692 c. Cocaine base;

4693 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4694 e. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the substances
4695 referred to in subdivisions a through d; or

4696 3. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~
4697 ~~amount of marijuana; or~~

4698 4. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its
4699 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable

4700 amount of methamphetamine, its salts, isomers, or salts of its isomers.

4701 A conviction under this section shall be punishable by a fine of not more than \$1 million and
4702 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

4703 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of
4704 a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any
4705 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or
4706 ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or
4707 (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to
4708 manufacture, sell, give or distribute the following during any 12-month period of its existence:

4709 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

4710 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

4711 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
4712 derivatives of ecgonine or their salts have been removed;

4713 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4714 c. Cocaine base;

4715 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4716 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances
4717 referred to in subdivisions a through d; *or*

4718 3. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

4719 4. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
4720 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
4721 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and
4722 imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be
4723 made to run consecutively with any other sentence. However, the court may impose a mandatory minimum
4724 sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement
4725 authorities.

4726 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any
4727 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a
4728 continuing series of violations of this section which are undertaken by such person in concert with five or
4729 more other persons with respect to whom such person occupies a position of organizer, a supervisory
4730 position, or any other position of management, and from which such person obtains substantial income or

resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

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

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

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

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

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

Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, ~~with the exception of any misdemeanor conviction for possession of marijuana~~, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, ~~except a dismissal of a misdemeanor offense for possession of marijuana~~, pleads

4762 guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,
4763 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of
4764 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon
4765 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether
4766 the clerk of court has been provided with the fingerprint identification information or fingerprints of the
4767 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints
4768 and photograph of the person be taken by a law-enforcement officer.

4769 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
4770 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
4771 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based
4772 upon consideration of the substance abuse assessment. The program or services may be located in the judicial
4773 district in which the charge is brought or in any other judicial district as the court may provide. The services
4774 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental
4775 Services, by a similar program which is made available through the Department of Corrections, (ii) a local
4776 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program
4777 certified by the Commission on VASAP.

4778 The court shall require the person entering such program under the provisions of this section to pay all or
4779 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,
4780 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

4781 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or
4782 education program or services, (b) to remain drug and alcohol free during the period of probation and submit
4783 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and
4784 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a
4785 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a
4786 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel
4787 of any program or agency approved by the supervising probation agency.

4788 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
4789 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
4790 court has been provided with the fingerprint identification information or fingerprints of such person, the
4791 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this

section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

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

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual violence.

A. For purposes of this section:

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

"Overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to § ~~4.1-1105.1~~ 4.1-1105, involuntary manslaughter pursuant to § 18.2-36.3, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

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

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the

4822 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

4823 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
4824 overdose; and

4825 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
4826 the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

4827 C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
4828 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana
4829 pursuant to § ~~4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication
4830 in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

4831 1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from
4832 emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in
4833 § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual
4834 violence committed against himself or another individual;

4835 2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act
4836 of sexual violence; and

4837 3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
4838 the individual seeking or obtaining medical attention, rendering care or assistance, or reporting to law
4839 enforcement.

4840 This subsection shall not apply to an individual who is alleged to have committed the act of sexual
4841 violence.

4842 D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
4843 attention for himself or another individual, to a person experiencing an overdose or who has experienced an
4844 act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a
4845 person who renders emergency care or assistance to an individual experiencing an overdose or who has
4846 experienced an act of sexual violence while another person seeks or obtains emergency medical attention
4847 during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

4848 E. This section does not establish protection from arrest or prosecution for any individual or offense other
4849 than those listed in subsection B or C. However, any individual immune to arrest or prosecution under this
4850 section shall not have his bail, probation, furlough, supervised release, suspended sentence, or parole revoked

4851 for the behavior immune from arrest or prosecution under the provisions of this section.

4852 F. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
4853 determined that the person arrested was immune from prosecution under this section.

4854 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

4855 No school nurse employed by a local school board, person employed by a local health department who is
4856 assigned to the public school pursuant to an agreement between the local health department and the school
4857 board, or other person employed by or contracted with a local school board to deliver health-related services
4858 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
4859 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis
4860 oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid
4861 written certification for the use of cannabis oil in accordance with § 4.1-1601.

4862 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**
4863 **facilities; hospice and hospice facilities; assisted living facilities.**

4864 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
4865 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under
4866 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
4867 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient
4868 or resident who has been issued a valid written certification for the use of cannabis oil in accordance with
4869 § 4.1-1601.

4870 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
4871 **Department of Agriculture and Consumer Services, Department of Law employees.**

4872 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
4873 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a
4874 federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing
4875 required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,
4876 ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for
4877 storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by
4878 the Board of Pharmacy of Directors of the Virginia Cannabis Control Authority and the Board of Agriculture
4879 and Consumer Services.

4880 B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law
4881 shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § ~~18.2-247~~, 18.2-248, 18.2-248.01,

18.2-248.1, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol is necessary in the performance of his duties.

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

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

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

A. Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to

undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. 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. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. 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.

C. The court trying a case in which commission of the criminal offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment

specified as the penalty for conviction. 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,

4975 give, or distribute any controlled substance; ~~or imitation controlled substance; or marijuana~~ while:

4976 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary
4977 school, any institution of higher education, or any clearly marked licensed child day center as defined in
4978 § 22.1-289.02;

4979 2. Upon public property or any property open to public use within 1,000 feet of the property described in
4980 subdivision 1;

4981 3. On any school bus as defined in § 46.2-100;

4982 4. Upon a designated school bus stop, or upon either public property or any property open to public use
4983 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be
4984 picked up and transported to or are being dropped off from school or a school-sponsored activity;

4985 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
4986 recreation or community center facility or any public library; or

4987 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property
4988 open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the provisions of this
4989 section if the person possessed the controlled substance; ~~or imitation controlled substance; or marijuana~~ on
4990 the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or
4991 distribute the controlled substance; ~~or imitation controlled substance; or marijuana~~. Nothing in this section
4992 shall prohibit the authorized distribution of controlled substances.

4993 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
4994 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more
4995 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an
4996 offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act
4997 (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum
4998 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
4999 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
5000 individual and not with intent to profit thereby from any consideration received or expected nor to induce the
5001 recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or
5002 dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

5003 C. If a person commits an act violating the provisions of this section, and the same act also violates
5004 another provision of law that provides for penalties greater than those provided for by this section, then

nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

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

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

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

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

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

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

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

C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of a

5036 controlled substance or marijuana a license number which that is fictitious, revoked, suspended, or issued to
5037 another person.

5038 D. It shall be is unlawful for any person, for the purpose of obtaining any controlled substance or
5039 marijuana, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
5040 physician, dentist, veterinarian, or other authorized person.

5041 E. It shall be is unlawful for any person to make or utter any false or forged prescription or false or forged
5042 written order.

5043 F. It shall be is unlawful for any person to affix any false or forged label to a package or receptacle
5044 containing any controlled substance.

5045 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or
5046 of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such
5047 drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of
5048 any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and
5049 who are acting in the course of their employment; provided that such manufacturer is licensed under the
5050 provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical
5051 manufacturer, its agents and duly authorized representatives file with the Board such information as the
5052 Board may deem appropriate.

5053 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein
5054 shall be is guilty of a Class 6 felony.

5055 Whenever any person who has not previously been convicted of any offense under this article or under
5056 any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant,
5057 or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense
5058 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for
5059 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court
5060 may place him on probation upon terms and conditions.

5061 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or
5062 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the
5063 accused. This program may be located in the judicial circuit in which the charge is brought or in any other
5064 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by
5065 the Department of Behavioral Health and Developmental Services. The court shall require the person entering

5066 such program under the provisions of this section to pay all or part of the costs of the program, including the
5067 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the
5068 person is determined by the court to be indigent.

5069 As a condition of supervised probation, the court shall require the accused to remain drug free during the
5070 period of probation and submit to such tests during that period as may be necessary and appropriate to
5071 determine if the accused is drug free. Such testing may be conducted by the personnel of any screening,
5072 evaluation, and education program to which the person is referred or by the supervising agency.

5073 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the
5074 original arresting law-enforcement agency to submit to fingerprinting.

5075 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and
5076 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find
5077 the defendant guilty of a Class 1 misdemeanor.

5078 **§ 18.2-265.1. Definition.**

5079 As used in this article, "drug paraphernalia" means all equipment, products, and materials of any kind
5080 which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for
5081 use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
5082 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,
5083 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a
5084 controlled substance. "Drug paraphernalia" includes:

5085 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting
5086 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be
5087 derived;

5088 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
5089 processing, or preparing ~~marijuana~~ or controlled substances;

5090 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or
5091 any species of plant ~~which~~ *that* is a controlled substance;

5092 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or
5093 effectiveness of ~~marijuana~~ or controlled substances, other than drug checking products used to determine the
5094 presence or concentration of a contaminant that can cause physical harm or death;

5095 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or

5096 controlled substances;

5097 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
5098 designed for use in cutting controlled substances;

5099 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in~~
5100 ~~otherwise cleaning or refining, marijuana;~~

5101 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
5102 compounding controlled substances;

5103 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging
5104 small quantities of ~~marijuana~~ or controlled substances;

5105 10. 9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~
5106 ~~or~~ controlled substances;

5107 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
5108 parenterally injecting controlled substances into the human body;

5109 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
5110 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

5111 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
5112 screens, ~~hashish heads~~, or punctured metal bowls;

5113 b. Water pipes;

5114 c. Carburetion tubes and devices;

5115 d. Smoking and carburetion masks;

5116 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that has
5117 become too small or too short to be held in the hand;

5118 f. Miniature cocaine spoons, and cocaine vials;

5119 g. Chamber pipes;

5120 h. Carburetor pipes;

5121 i. Electric pipes;

5122 j. Air-driven pipes;

5123 k. Chillums;

5124 l. Bongs;

5125 m. Ice pipes or chillers.

5126 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

5127 In determining whether an object is drug paraphernalia, the court may consider, in addition to all other
5128 relevant evidence, the following:

5129 1. Constitutionally admissible statements by the accused concerning the use of the object;

5130 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to
5131 the accused;

5132 3. Instructions, oral or written, provided with the object concerning its use;

5133 4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;

5134 5. National and local advertising within the actual knowledge of the accused concerning its use;

5135 6. The manner in which the object is displayed for sale;

5136 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
5137 licensed distributor or dealer of tobacco products;

5138 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business
5139 enterprise;

5140 9. The existence and scope of legitimate uses for the object in the community;

5141 10. Expert testimony concerning its use or the purpose for which it was designed; *and*

5142 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
5143 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in
5144 control of the object, as to a direct violation of this article shall not prevent a finding that the object is
5145 intended for use or designed for use as drug paraphernalia.

5146 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

5147 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
5148 circumstances where one reasonably should know, that it is either designed for use or intended by such
5149 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
5150 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
5151 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a Class 1
5152 misdemeanor.

5153 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
5154 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class 6
5155 felony.

5156 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ is
5157 guilty of a Class 1 misdemeanor.

5158 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

5159 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation
5160 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
5161 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ is guilty of a Class 4
5162 felony.

5163 **§ 18.2-308.012. Prohibited conduct.**

5164 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,
5165 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction
5166 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under
5167 the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of
5168 § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of
5169 § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall
5170 revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person
5171 convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a
5172 period of five years.

5173 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in
5174 § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been
5175 granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic
5176 beverage while on the premises. A person who carries a concealed handgun onto the premises of such a
5177 restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in
5178 this subsection shall apply to a federal, state, or local law-enforcement officer.

5179 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

5180 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in
5181 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge
5182 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate
5183 and distinct felony.

5184 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in
5185 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent
5186 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a

5187 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum
5188 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to
5189 run consecutively with, any punishment received for the commission of the primary felony.

5190 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or
5191 other firearm or display such weapon in a threatening manner while committing or attempting to commit the
5192 illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a
5193 controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~
5194 ~~more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a
5195 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum
5196 term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to
5197 run consecutively with, any punishment received for the commission of the primary felony.

5198 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

5199 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the
5200 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to
5201 § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such
5202 obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth,
5203 witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a
5204 Class 1 misdemeanor.

5205 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
5206 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any
5207 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
5208 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
5209 misdemeanor.

5210 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,
5211 magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer, lawfully
5212 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court
5213 relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of § 18.2-248.1,~~
5214 ~~or~~ §, 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony
5215 offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

5216 D. Any person who knowingly and willfully makes any materially false statement or representation to a
5217 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of

5218 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

5219 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully
5220 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,
5221 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement
5222 officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person
5223 that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place
5224 the person under arrest, and (b) a reasonable person who receives such communication knows or should know
5225 that he is not free to leave.

5226 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

5227 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,
5228 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the
5229 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
5230 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled
5231 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is
5232 guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or
5233 conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
5234 explosives of any nature is guilty of a Class 3 felony.

5235 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

5236 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
5237 **authorizing interception of communications.**

5238 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
5239 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in
5240 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of
5241 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by
5242 the Department of State Police, when such interception may reasonably be expected to provide evidence of
5243 the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of
5244 § 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
5245 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.),
5246 Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in
5247 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing
5248 offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the

5249 observation or monitoring of the interception by a police department of a county or city, by a sheriff's office,
5250 or by law-enforcement officers of the United States. Such application shall be made, and such order may be
5251 granted, in conformity with the provisions of § 19.2-68.

5252 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

5253 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall
5254 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that
5255 an offense was committed, is being committed, or will be committed or the person or persons whose
5256 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,
5257 maintain an address or a post office box, or are making the communication within the territorial jurisdiction
5258 of the court.

5259 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the
5260 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
5261 offense was committed, is being committed, or will be committed or the physical location of the oral
5262 communication to be intercepted is within the territorial jurisdiction of the court.

5263 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire
5264 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where
5265 the order is entered, regardless of the physical location or the method by which the communication is
5266 captured or routed to the monitoring location.

5267 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

5268 A. The following officers shall have the powers of arrest as provided in this section:

5269 1. Members of the State Police force of the Commonwealth;

5270 2. Sheriffs of the various counties and cities, and their deputies;

5271 3. Members of any county police force or any duly constituted police force of any city or town of the
5272 Commonwealth;

5273 4. The Commissioner, members and employees of the Marine Resources Commission granted the power
5274 of arrest pursuant to § 28.2-900;

5275 5. Regular conservation police officers appointed pursuant to § 29.1-200;

5276 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty
5277 officers authorized under § 29.1-205 to make arrests;

5278 7. Conservation officers appointed pursuant to § 10.1-115;

5279 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed

5280 pursuant to § 46.2-217;

5281 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*
5282 *Authority*;

5283 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

5284 11. Members of the Division of Capitol Police.

5285 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the
5286 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a
5287 felony not in his presence.

5288 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of
5289 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a
5290 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an
5291 order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another
5292 officer, who may obtain a warrant based upon statements made to him by the arresting officer.

5293 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in
5294 § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such
5295 accident has been transported, or in the apprehension of any person charged with the theft of any motor
5296 vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based
5297 upon personal investigation, including information obtained from eyewitnesses, that a crime has been
5298 committed by any person then and there present, apprehend such person without a warrant of arrest. For
5299 purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or
5300 person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the
5301 clearing of the highway or to ensure the safety of the motoring public.

5302 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location
5303 any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft
5304 or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of
5305 § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether
5306 or not the offense was committed in such officer's presence. Such officers may, within three hours of the
5307 alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to
5308 suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4,
5309 whether or not the offense was committed in such officer's presence.

5310 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another

5311 jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile
5312 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer
5313 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably
5314 accurate description of such person wanted and the crime alleged.

5315 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in
5316 his presence when the officer receives a radio message from his department or other law-enforcement agency
5317 within the Commonwealth that a warrant or capias for such offense is on file.

5318 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their
5319 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)
5320 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a
5321 firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such
5322 property is located on premises used for business or commercial purposes, or a similar local ordinance, when
5323 any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged
5324 offense. The arresting officer may issue a summons to any person arrested under this section for a
5325 misdemeanor violation involving shoplifting.

5326 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

5327 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,
5328 persons for crimes involving:

- 5329 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
5330 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
5331 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1; and
5332 (d) 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare, or
5333 security of the population of a correctional institution.

5334 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

5335 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer
5336 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or
5337 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other
5338 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an
5339 equivalent offense in another state, shall file a report of such arrest with the division safety official designated
5340 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as
5341 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~~ of Title ~~18.2~~ 4.1;

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

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

9. Robbery pursuant to § 18.2-58;

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

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

5373 12. An act of violence by a mob pursuant to § 18.2-42.1; or

5374 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

5375 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

5376 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1
5377 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer
5378 shall be permitted to testify as to the results of field tests that have been approved by the Department of
5379 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act
5380 (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is
5381 a controlled substance, *or* imitation controlled substance, *as defined in § 18.2-247*, or marijuana, as defined in
5382 ~~§ 18.2-247~~ 4.1-600.

5383 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
5384 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the
5385 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative
5386 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue,
5387 is marijuana provided the defendant has been given written notice of his right to request a full chemical
5388 analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the
5389 defendant prior to trial.

5390 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
5391 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by
5392 motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon
5393 such motion, the court shall order that the analysis be performed by the Department of Forensic Science in
5394 accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order the method of custody,
5395 transfer, and return of evidence submitted for chemical analysis.

5396 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

5397 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
5398 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the
5399 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an
5400 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
5401 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,
5402 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
5403 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.

5435 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter
5436 22.1 (§ 19.2-386.1 et seq.).

5437 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

5438 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
5439 possession of which is not established or the title to which cannot be ascertained, which have come into the
5440 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et
5441 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:

5442 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,
5443 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such
5444 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such
5445 police department or sheriff's office for research and training purposes and for destruction pursuant to
5446 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of
5447 Pharmacy once these purposes have been fulfilled.

5448 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such
5449 substances or paraphernalia, which order shall state the existence and nature of the substance or
5450 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance
5451 or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the
5452 court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be
5453 given to a person or entity that makes a showing to the court of sufficient need for the property and an ability
5454 to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and
5455 manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the
5456 order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or
5457 paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event
5458 a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such
5459 substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement
5460 officer of the agency or his designee may, with the written consent of the appropriate attorney for the
5461 Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of
5462 the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the
5463 chief law-enforcement officer by the officer to whom the order is directed.

5464 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*
5465 (§ 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

5466 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

5467 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any
5468 law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or
5469 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation
5470 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting
5471 agency's exceeding the limits allowed by this subsection.

5472 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
5473 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of
5474 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)
5475 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training
5476 purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement
5477 officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the
5478 substances that were used for research and training pursuant to a court order in the immediately preceding
5479 fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under
5480 oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

5481 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

5482 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with
5483 any prosecution or investigation under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et*
5484 *seq.) of Title 18.2*, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly
5485 selected from the seized substance for representative purposes as evidence and destroy the remainder of the
5486 seized substance.

5487 Before any destruction is carried out under this section, the law-enforcement agency shall cause the
5488 material seized to be photographed with identification case numbers or other means of identification and shall
5489 prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if
5490 known, or his attorney, at least five days in advance that the photography will take place and that they may be
5491 present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused
5492 or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and
5493 place the destruction will occur. Any notice required under the provisions of this section shall be by first-
5494 class mail to the last known address of the person required to be notified. In addition to the substance retained

5495 for representative purposes as evidence, all photographs and records made under this section and properly
5496 identified shall be admissible in any court proceeding for any purposes for which the seized substance itself
5497 would have been admissible.

5498 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
5499 **substances, etc.**

5500 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take
5501 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation
5502 controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution
5503 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
5504 its order may make provision for ensuring integrity of these items until further order of the court.

5505 **§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

5506 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
5507 only to:

5508 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
5509 the administration of criminal justice and the screening of an employment application or review of
5510 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
5511 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
5512 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of
5513 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this
5514 subdivision, criminal history record information includes information sent to the Central Criminal Records
5515 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
5516 of the State Police, a police department or sheriff's office that is a part of or administered by the
5517 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
5518 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
5519 the administration of criminal justice;

5520 2. Such other individuals and agencies that require criminal history record information to implement a
5521 state or federal statute or executive order of the President of the United States or Governor that expressly
5522 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except
5523 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice
5524 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the

5525 charge has been recorded and no active prosecution of the charge is pending;

5526 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
5527 services required for the administration of criminal justice pursuant to that agreement which shall specifically
5528 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
5529 confidentiality of the data;

5530 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
5531 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
5532 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5533 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
5534 of the President of the United States or Governor to conduct investigations determining employment
5535 suitability or eligibility for security clearances allowing access to classified information;

5536 6. Individuals and agencies where authorized by court order or court rule;

5537 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
5538 operated or controlled by any political subdivision, and any public service corporation that operates a public
5539 transit system owned by a local government for the conduct of investigations of applicants for employment,
5540 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a
5541 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible
5542 with the nature of the employment, permit, or license under consideration;

5543 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
5544 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position
5545 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
5546 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction
5547 record would be compatible with the nature of the employment under consideration;

5548 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
5549 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of
5550 that individual's household, with whom the agency is considering placing a child or from whom the agency is
5551 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis
5552 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further
5553 disseminated to any party other than a federal or state authority or court as may be required to comply with an
5554 express requirement of law;

5555 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
5556 the conduct of investigations of applicants for employment when such employment involves personal contact
5557 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
5558 employment under consideration;

5559 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
5560 including, but not limited to, issuing visas and passports;

5561 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
5562 his cost, except that criminal history record information shall be supplied at no charge to a person who has
5563 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
5564 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
5565 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
5566 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
5567 § 15.2-1713.1;

5568 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
5569 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
5570 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
5571 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
5572 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
5573 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
5574 Services' representative or a federal or state authority or court as may be required to comply with an express
5575 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
5576 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
5577 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
5578 § 22.1-289.035 or § 22.1-289.039;

5579 13. The Department of Social Services for the purpose of screening individuals as a condition of licensure,
5580 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency
5581 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency
5582 pursuant to § 63.2-901.1;

5583 14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
5584 who accept public school employment and those current school board employees for whom a report of arrest
5585 has been made pursuant to § 19.2-83.1;

5586 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
5587 (§ 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
5588 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
5589 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5590 16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
5591 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
5592 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
5593 limitations set out in subsection E;

5594 17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of
5595 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers
5596 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5597 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
5598 § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in*
5599 *§ 4.1-622;*

5600 19. The State Board of Elections and authorized officers and employees thereof and general registrars
5601 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
5602 registration, limited to any record of felony convictions;

5603 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
5604 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
5605 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,
5606 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
5607 evaluation, treatment, or discharge planning;

5608 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
5609 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
5610 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5611 22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
5612 Department of Education, or the Department of Behavioral Health and Developmental Services for the
5613 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5614 23. The Department of Behavioral Health and Developmental Services and facilities operated by the
5615 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
5616 instructions;

5617 24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
5618 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
5619 information on behalf of such governing boards or administrators pursuant to a written agreement with the
5620 Department of State Police;

5621 25. Public institutions of higher education and nonprofit private institutions of higher education for the
5622 purpose of screening individuals who are offered or accept employment;

5623 26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
5624 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
5625 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
5626 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
5627 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
5628 that such disclosure was made to the threat assessment team;

5629 27. Executive directors of community services boards or the personnel director serving the community
5630 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
5631 residential service provider, permission to enter into a shared living arrangement with a person receiving
5632 medical assistance services pursuant to a waiver, or permission for any person under contract with the
5633 community services board to serve in a direct care position on behalf of the community services board
5634 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5635 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
5636 determining an individual's fitness for employment, approval as a sponsored residential service provider,
5637 permission to enter into a shared living arrangement with a person receiving medical assistance services
5638 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
5639 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
5640 37.2-506.1, and 37.2-607;

5641 29. The Commissioner of Social Services for the purpose of locating persons who owe child support or
5642 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,
5643 address, demographics and social security number of the data subject shall be released;

5644 30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
5645 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose
5646 of determining if any applicant who accepts employment in any direct care position or requests approval as a
5647 sponsored residential service provider, permission to enter into a shared living arrangement with a person

5648 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with
5649 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have
5650 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
5651 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5652 31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
5653 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
5654 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5655 32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee
5656 for Courts of Justice for the purpose of determining if any person being considered for election to any
5657 judgeship has been convicted of a crime;

5658 33. Heads of state agencies in which positions have been identified as sensitive for the purpose of
5659 determining an individual's fitness for employment in positions designated as sensitive under Department of
5660 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5661 34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
5662 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
5663 Predators Act (§ 37.2-900 et seq.);

5664 35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
5665 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for
5666 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased
5667 laborers, and other visitors;

5668 36. Any employer of individuals whose employment requires that they enter the homes of others, for the
5669 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5670 37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
5671 of adult foster care and home-based services or (ii) any individual with whom the agency is considering
5672 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the
5673 restriction that the data shall not be further disseminated by the agency to any party other than a federal or
5674 state authority or court as may be required to comply with an express requirement of law for such further
5675 dissemination, subject to limitations set out in subsection G;

5676 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening
5677 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or

5678 have accepted a position related to the provision of transportation services to enrollees in the Medicaid
5679 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
5680 administered by the Department of Medical Assistance Services;

5681 39. The State Corporation Commission for the purpose of investigating individuals who are current or
5682 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
5683 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.
5684 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
5685 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
5686 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
5687 or its designee;

5688 40. The Department of Professional and Occupational Regulation for the purpose of investigating
5689 individuals for initial licensure pursuant to § 54.1-2106.1;

5690 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
5691 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
5692 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
5693 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5694 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5695 43. The State Treasurer for the purpose of determining whether a person receiving compensation for
5696 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5697 44. The Department of Education or its agents or designees for the purpose of screening individuals
5698 seeking to enter into a contract with the Department of Education or its agents or designees for the provision
5699 of child care services for which child care subsidy payments may be provided;

5700 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
5701 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
5702 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5703 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
5704 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5705 47. Administrators and board presidents of and applicants for licensure or registration as a child day
5706 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
5707 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
5708 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034

5709 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility
5710 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or
5711 a federal or state authority or court as may be required to comply with an express requirement of law for such
5712 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent
5713 of Public Instruction's representative from issuing written certifications regarding the results of prior
5714 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5715 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who
5716 are offered or accept employment or will be providing volunteer or contractual services with the National
5717 Center for Missing and Exploited Children;

5718 49. The Executive Director or investigators of the Board of Accountancy for the purpose of the
5719 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5720 50. Other entities as otherwise provided by law.

5721 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
5722 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
5723 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
5724 whom a report has been made under the provisions of this chapter.

5725 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
5726 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
5727 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy
5728 of conviction data covering the person named in the request to the person making the request; however, such
5729 person on whom the data is being obtained shall consent in writing, under oath, to the making of such
5730 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as
5731 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making
5732 the request shall be furnished at his cost a certification to that effect.

5733 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
5734 section shall be limited to the purposes for which it was given and may not be disseminated further, except as
5735 otherwise provided in subdivision A 47.

5736 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
5737 record information for employment or licensing inquiries except as provided by law.

5738 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange

5739 prior to dissemination of any criminal history record information on offenses required to be reported to the
5740 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.
5741 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the
5742 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal
5743 justice agency to whom a request has been made for the dissemination of criminal history record information
5744 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the
5745 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses
5746 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the
5747 record as required by § 15.2-1722.

5748 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
5749 organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for
5750 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5751 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
5752 centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any
5753 offense specified in § 63.2-1720.

5754 G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited
5755 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
5756 crime in § 19.2-392.02.

5757 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
5758 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
5759 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
5760 request to the employer or prospective employer making the request, provided that the person on whom the
5761 data is being obtained has consented in writing to the making of such request and has presented a photo-
5762 identification to the employer or prospective employer. In the event no conviction data is maintained on the
5763 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a
5764 certification to that effect. The criminal history record search shall be conducted on forms provided by the
5765 Exchange.

5766 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal
5767 history record information, including criminal history record information maintained in the National Crime
5768 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his

5769 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal
5770 history record information provided under this subsection shall be disseminated further.

5771 **§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.**

5772 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
5773 only to:

5774 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
5775 the administration of criminal justice and the screening of an employment application or review of
5776 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
5777 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
5778 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of
5779 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this
5780 subdivision, criminal history record information includes information sent to the Central Criminal Records
5781 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
5782 of the State Police, a police department or sheriff's office that is a part of or administered by the
5783 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
5784 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
5785 the administration of criminal justice;

5786 2. Such other individuals and agencies that require criminal history record information to implement a
5787 state or federal statute or executive order of the President of the United States or Governor that expressly
5788 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except
5789 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice
5790 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the
5791 charge has been recorded and no active prosecution of the charge is pending;

5792 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
5793 services required for the administration of criminal justice pursuant to that agreement which shall specifically
5794 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
5795 confidentiality of the data;

5796 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
5797 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
5798 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5799 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
5800 of the President of the United States or Governor to conduct investigations determining employment
5801 suitability or eligibility for security clearances allowing access to classified information;

5802 6. Individuals and agencies where authorized by court order or court rule;

5803 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
5804 operated or controlled by any political subdivision, and any public service corporation that operates a public
5805 transit system owned by a local government for the conduct of investigations of applicants for employment,
5806 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a
5807 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible
5808 with the nature of the employment, permit, or license under consideration;

5809 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) ~~of Title~~
5810 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position
5811 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
5812 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction
5813 record would be compatible with the nature of the employment under consideration;

5814 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
5815 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of
5816 that individual's household, with whom the agency is considering placing a child or from whom the agency is
5817 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis
5818 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further
5819 disseminated to any party other than a federal or state authority or court as may be required to comply with an
5820 express requirement of law;

5821 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
5822 the conduct of investigations of applicants for employment when such employment involves personal contact
5823 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
5824 employment under consideration;

5825 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
5826 including, but not limited to, issuing visas and passports;

5827 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
5828 his cost, except that criminal history record information shall be supplied at no charge to a person who has

5829 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
5830 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
5831 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
5832 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
5833 § 15.2-1713.1;

5834 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
5835 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
5836 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
5837 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
5838 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
5839 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
5840 Services' representative or a federal or state authority or court as may be required to comply with an express
5841 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
5842 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
5843 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
5844 § 22.1-289.035 or § 22.1-289.039;

5845 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended
5846 care center for dissemination to the State Health Commissioner's representative pursuant to
5847 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and
5848 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be
5849 further disseminated by the center to any party other than the data subject, the State Health Commissioner's
5850 representative, or a federal or state authority or court as may be required to comply with an express
5851 requirement of law;

5852 14. The Department of Social Services for the purpose of screening individuals as a condition of licensure,
5853 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency
5854 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency
5855 pursuant to § 63.2-901.1;

5856 15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
5857 who accept public school employment and those current school board employees for whom a report of arrest
5858 has been made pursuant to § 19.2-83.1;

5859 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law

5860 (§ 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
5861 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
5862 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5863 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for
5864 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to
5865 § 32.1-162.15:1.17;

5866 18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
5867 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
5868 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
5869 limitations set out in subsection E;

5870 19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of
5871 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers
5872 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5873 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
5874 § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in*
5875 *§ 4.1-622;*

5876 21. The State Board of Elections and authorized officers and employees thereof and general registrars
5877 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
5878 registration, limited to any record of felony convictions;

5879 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
5880 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
5881 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,
5882 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
5883 evaluation, treatment, or discharge planning;

5884 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
5885 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
5886 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5887 24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
5888 Department of Education, or the Department of Behavioral Health and Developmental Services for the
5889 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5890 25. The Department of Behavioral Health and Developmental Services and facilities operated by the

5891 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
5892 instructions;

5893 26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
5894 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
5895 information on behalf of such governing boards or administrators pursuant to a written agreement with the
5896 Department of State Police;

5897 27. Public institutions of higher education and nonprofit private institutions of higher education for the
5898 purpose of screening individuals who are offered or accept employment;

5899 28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
5900 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
5901 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
5902 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
5903 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
5904 that such disclosure was made to the threat assessment team;

5905 29. Executive directors of community services boards or the personnel director serving the community
5906 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
5907 residential service provider, permission to enter into a shared living arrangement with a person receiving
5908 medical assistance services pursuant to a waiver, or permission for any person under contract with the
5909 community services board to serve in a direct care position on behalf of the community services board
5910 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5911 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
5912 determining an individual's fitness for employment, approval as a sponsored residential service provider,
5913 permission to enter into a shared living arrangement with a person receiving medical assistance services
5914 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
5915 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
5916 37.2-506.1, and 37.2-607;

5917 31. The Commissioner of Social Services for the purpose of locating persons who owe child support or
5918 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,
5919 address, demographics and social security number of the data subject shall be released;

5920 32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
5921 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose

5922 of determining if any applicant who accepts employment in any direct care position or requests approval as a
5923 sponsored residential service provider, permission to enter into a shared living arrangement with a person
5924 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with
5925 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have
5926 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
5927 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5928 33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
5929 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
5930 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5931 34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee
5932 for Courts of Justice for the purpose of determining if any person being considered for election to any
5933 judgeship has been convicted of a crime;

5934 35. Heads of state agencies in which positions have been identified as sensitive for the purpose of
5935 determining an individual's fitness for employment in positions designated as sensitive under Department of
5936 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5937 36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
5938 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
5939 Predators Act (§ 37.2-900 et seq.);

5940 37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
5941 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for
5942 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased
5943 laborers, and other visitors;

5944 38. Any employer of individuals whose employment requires that they enter the homes of others, for the
5945 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5946 39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
5947 of adult foster care and home-based services or (ii) any individual with whom the agency is considering
5948 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the
5949 restriction that the data shall not be further disseminated by the agency to any party other than a federal or
5950 state authority or court as may be required to comply with an express requirement of law for such further
5951 dissemination, subject to limitations set out in subsection G;

5952 40. The Department of Medical Assistance Services, or its designee, for the purpose of screening
5953 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
5954 have accepted a position related to the provision of transportation services to enrollees in the Medicaid
5955 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
5956 administered by the Department of Medical Assistance Services;

5957 41. The State Corporation Commission for the purpose of investigating individuals who are current or
5958 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
5959 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.
5960 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
5961 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
5962 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
5963 or its designee;

5964 42. The Department of Professional and Occupational Regulation for the purpose of investigating
5965 individuals for initial licensure pursuant to § 54.1-2106.1;

5966 43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
5967 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
5968 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
5969 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5970 44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5971 45. The State Treasurer for the purpose of determining whether a person receiving compensation for
5972 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5973 46. The Department of Education or its agents or designees for the purpose of screening individuals
5974 seeking to enter into a contract with the Department of Education or its agents or designees for the provision
5975 of child care services for which child care subsidy payments may be provided;

5976 47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
5977 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
5978 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5979 48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
5980 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5981 49. Administrators and board presidents of and applicants for licensure or registration as a child day
5982 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the

5983 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
5984 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
5985 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility
5986 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or
5987 a federal or state authority or court as may be required to comply with an express requirement of law for such
5988 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent
5989 of Public Instruction's representative from issuing written certifications regarding the results of prior
5990 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5991 50. The National Center for Missing and Exploited Children for the purpose of screening individuals who
5992 are offered or accept employment or will be providing volunteer or contractual services with the National
5993 Center for Missing and Exploited Children;

5994 51. The Executive Director or investigators of the Board of Accountancy for the purpose of the
5995 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5996 52. Other entities as otherwise provided by law.

5997 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
5998 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
5999 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
6000 whom a report has been made under the provisions of this chapter.

6001 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
6002 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
6003 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy
6004 of conviction data covering the person named in the request to the person making the request; however, such
6005 person on whom the data is being obtained shall consent in writing, under oath, to the making of such
6006 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as
6007 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making
6008 the request shall be furnished at his cost a certification to that effect.

6009 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
6010 section shall be limited to the purposes for which it was given and may not be disseminated further, except as
6011 otherwise provided in subdivision A 49.

6012 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history

6013 record information for employment or licensing inquiries except as provided by law.

6014 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
6015 prior to dissemination of any criminal history record information on offenses required to be reported to the
6016 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.
6017 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the
6018 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal
6019 justice agency to whom a request has been made for the dissemination of criminal history record information
6020 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the
6021 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses
6022 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the
6023 record as required by § 15.2-1722.

6024 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
6025 organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for
6026 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

6027 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
6028 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any
6029 offense specified in § 63.2-1720.

6030 G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited
6031 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
6032 crime in § 19.2-392.02.

6033 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
6034 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
6035 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
6036 request to the employer or prospective employer making the request, provided that the person on whom the
6037 data is being obtained has consented in writing to the making of such request and has presented a photo-
6038 identification to the employer or prospective employer. In the event no conviction data is maintained on the
6039 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a
6040 certification to that effect. The criminal history record search shall be conducted on forms provided by the
6041 Exchange.

6042 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal

6043 history record information, including criminal history record information maintained in the National Crime
6044 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his
6045 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal
6046 history record information provided under this subsection shall be disseminated further.

6047 **§ 19.2-389.3. (Repealed effective July 1, 2026) Marijuana possession; limits on dissemination of**
6048 **criminal history record information; prohibited practices by employers, educational institutions, and**
6049 **state and local governments; penalty.**

6050 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of
6051 *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under ~~§§~~ *former* §
6052 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the
6053 Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided
6054 that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of
6055 eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report
6056 prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter
6057 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the
6058 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local
6059 community-based probation services agencies established pursuant to the Comprehensive Community
6060 Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult
6061 local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for
6062 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System
6063 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to
6064 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines
6065 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State
6066 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any
6067 political subdivision thereof, and who is responsible for the prevention and detection of crime and the
6068 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration
6069 of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research
6070 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's
6071 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the
6072 purpose of screening any person for full-time or part-time employment with the State Police or a police
6073 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

6104 employees or volunteers providing care to children or the elderly or disabled.

6105 A. For purposes of this section:

6106 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
6107 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
6108 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
6109 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;
6110 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,
6111 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,
6112 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
6113 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,
6114 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,
6115 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
6116 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
6117 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
6118 § 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
6119 violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1,
6120 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,
6121 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
6122 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,
6123 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,
6124 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction;
6125 (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
6126 offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248,
6127 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,
6128 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
6129 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the
6130 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to
6131 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any
6132 finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.)
6133 of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the
6134 Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense

6135 under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes
6136 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)
6137 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date
6138 of the conviction.

6139 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
6140 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
6141 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of
6142 the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of
6143 the charge, and any other information that may be useful in identifying persons arrested for or convicted of a
6144 barrier crime.

6145 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation
6146 to children or the elderly or disabled.

6147 "Department" means the Department of State Police.

6148 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
6149 to volunteer for a qualified entity.

6150 "Identification document" means a document made or issued by or under the authority of the United
6151 States government, a state, a political subdivision of a state, a foreign government, political subdivision of a
6152 foreign government, an international governmental or an international quasi-governmental organization that,
6153 when completed with information concerning a particular individual, is of a type intended or commonly
6154 accepted for the purpose of identification of individuals.

6155 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
6156 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
6157 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
6158 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

6159 "Qualified entity" means a business or organization that provides care to children or the elderly or
6160 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
6161 pursuant to subdivision A 7 of § 22.1-289.030.

6162 B. A qualified entity may request the Department of State Police to conduct a national criminal
6163 background check on any provider who is employed by such entity. No qualified entity may request a

6164 national criminal background check on a provider until such provider has:

6165 1. Been fingerprinted; and

6166 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
6167 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has
6168 ever been convicted of or is the subject of pending charges for a criminal offense within or outside the
6169 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the
6170 particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv)
6171 a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the
6172 accuracy and completeness of any information contained in any such report, and to obtain a prompt
6173 determination as to the validity of such challenge before a final determination is made by the Department;
6174 and (v) a notice to the provider that prior to the completion of the background check the qualified entity may
6175 choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified
6176 entity provides care.

6177 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
6178 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the
6179 Department shall make a determination whether the provider has been convicted of or is the subject of
6180 charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information,
6181 the Department shall access the national criminal history background check system, which is maintained by
6182 the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall
6183 access the Central Criminal Records Exchange maintained by the Department. If the Department receives a
6184 background report lacking disposition data, the Department shall conduct research in whatever state and local
6185 recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable
6186 efforts to respond to a qualified entity's inquiry within 15 business days.

6187 D. Any background check conducted pursuant to this section for a provider employed by a private entity
6188 shall be screened by the Department of State Police. If the provider has been convicted of or is under
6189 indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work
6190 or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

6191 E. Any background check conducted pursuant to this section for a provider employed by a governmental
6192 entity shall be provided to that entity.

6193 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
6194 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
6195 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
6196 fingerprints.

6197 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
6198 negligence per se in any civil action.

6199 **§ 19.2-392.6. (Effective July 1, 2026) Automatic sealing of offenses resulting in conviction.**

6200 A. If a person was convicted of a violation of any of the following sections with an offense date on or
6201 after January 1, 1986, such conviction, including any records relating to such conviction, shall be ordered to
6202 be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and
6203 C: a misdemeanor violation of § 18.2-96 or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor
6204 violation of *former* § 18.2-248.1; or § 18.2-415.

6205 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to
6206 be automatically sealed if seven years have passed since the date of the conviction and the person convicted
6207 of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the
6208 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of
6209 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during
6210 that time period.

6211 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the conviction,
6212 the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

6213 This section shall not be construed as prohibiting a person from seeking sealing in the circuit court
6214 pursuant to the provisions of § 19.2-392.12 or 19.2-392.12:1.

6215 **§ 19.2-392.12:1. (Effective July 1, 2026) Sealing of charges and convictions related to automatic**
6216 **sealing; petition.**

6217 A. A person who has been convicted of or had a charge deferred and dismissed for a violation of
6218 § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or
6219 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a
6220 violation of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file
6221 a petition setting forth the relevant facts and requesting the sealing of the criminal history record information
6222 and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or
6223 conviction, such petition may also request the sealing of any specifically identified ancillary matter related to

6224 such charge or conviction.

6225 B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7 or 19.2-392.11
6226 where the offense date for such conviction or offense was on or after January 1, 1986, or who had an offense
6227 sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition setting forth the
6228 relevant facts and requesting sealing of the criminal history record information and court records of any
6229 specifically identified ancillary matter related to that charge or conviction.

6230 C. A person shall not be required to pay any court fees or costs for filing a petition pursuant to this
6231 section.

6232 D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if
6233 reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of
6234 and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the arresting
6235 agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary matter; and (iv)
6236 the case number associated with each court record that is the subject of the petition. When this information is
6237 not reasonably available, the petition shall state the reason for such unavailability. The petition shall further
6238 state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final disposition of the charge,
6239 conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date of birth, sex, race, and social
6240 security number, if available; and (d) the full name used by the petitioner at the time of arrest or summons. A
6241 petition may request the sealing of the criminal history record information and court records for multiple
6242 charges, convictions, or ancillary matters as set forth in subsections A and B, provided that all such charges,
6243 convictions, and ancillary matters are eligible for sealing under this section. A petition may not request the
6244 sealing of the criminal history record information and court records where the charge, conviction, or ancillary
6245 matter was finalized on the same date as a conviction or deferred dismissal that is not eligible for sealing
6246 under this section.

6247 E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within
6248 his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum
6249 of two petitions set forth in § 19.2-392.12.

6250 F. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the
6251 petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the
6252 Commonwealth of the county or city in which the petition is filed. The attorney for the Commonwealth may

6253 file an objection or answer to the petition or may give written notice to the court that he does not object to the
6254 petition within 30 days after it is delivered to him or received in the mail.

6255 G. In addition to the filing of the petition under subsection D, the petitioner shall request that the Central
6256 Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and national
6257 criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the
6258 CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to
6259 receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which
6260 shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the
6261 hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of
6262 the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal
6263 as provided by law in civil cases.

6264 H. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the
6265 petition.

6266 I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the
6267 records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed
6268 since the date of conviction or of dismissal of the deferred charge listed in subsection A and the petitioner has
6269 not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal
6270 Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the
6271 United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

6272 J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter if
6273 the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, or
6274 19.2-392.11.

6275 K. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives
6276 written notice to the court pursuant to subsection F that he does not object to the petition and (ii) stipulates in
6277 such written notice that the petitioner is eligible to have such charge, conviction, or ancillary matter sealed,
6278 the court may enter an order of sealing without conducting a hearing.

6279 L. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

6280 M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under
6281 seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police.
6282 Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and social

6283 security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons; (iii)
6284 the petitioner's state identification number from the criminal history record; (iv) the court case number of the
6285 charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number, if
6286 available. The Department of State Police shall validate the accuracy of any criminal history record ordered
6287 to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon
6288 receipt of such electronic notification, the Department of State Police shall seal such records in accordance
6289 with § 19.2-392.13. The Department of State Police shall also electronically notify the Office of the
6290 Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to
6291 have obtained such a record that such record has been ordered to be sealed and may only be disseminated in
6292 accordance with § 19.2-392.13.

6293 N. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth
6294 in this section or (ii) the court entered an order for the sealing of records contrary to law shall be voidable
6295 upon motion and notice made within two years of the entry of such order.

6296 O. A petition filed under this section and any responsive pleadings filed by the attorney for the
6297 Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order
6298 to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth
6299 in § 19.2-392.13.

6300 P. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge,
6301 conviction, or ancillary matter under this section when such charge, conviction, or ancillary matter is eligible
6302 for sealing under some other section of this chapter.

6303 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp**
6304 **products intended for smoking, and gambling.**

6305 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by
6306 the Board of Education.

6307 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,
6308 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic
6309 Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials
6310 to the Department of Education. The Department of Education shall review and shall distribute such materials
6311 as are approved to the public schools.

6312 The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall
6313 distribute to each local school division educational materials concerning the health and safety risks of using

6314 retail tobacco products and hemp products intended for smoking, as such terms are defined in § 18.2-371.2.
6315 Instruction concerning the health and safety risks of using *retail* tobacco products and hemp products
6316 intended for smoking, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary
6317 and secondary school in the Commonwealth, consistent with such educational materials.

6318 C. Instruction concerning gambling and the addictive potential thereof shall be provided by the public
6319 schools as prescribed by the Board.

6320 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

6321 A. School boards shall expel from school attendance any student whom such school board has
6322 determined, in accordance with the procedures set forth in this article, to have brought a controlled substance,
6323 or imitation controlled substance, ~~or marijuana~~ as those terms are defined in § 18.2-247 onto school property
6324 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board
6325 may, however, determine, based on the facts of a particular situation, that special circumstances exist and no
6326 disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board
6327 may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of
6328 such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations
6329 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such
6330 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.
6331 Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the
6332 particular situation.

6333 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this
6334 section no later than three months after the date on which this act becomes effective.

6335 **§ 23.1-1301. Governing boards; powers.**

6336 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 6337 1. Make regulations and policies concerning the institution;
- 6338 2. Manage the funds of the institution and approve an annual budget;
- 6339 3. Appoint the chief executive officer of the institution;
- 6340 4. Appoint professors and fix their salaries; and
- 6341 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

6342 B. The governing board of each public institution of higher education or its designee may:

- 6343 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative

6344 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has
6345 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and
6346 conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the
6347 same manner as all other gifts and bequests;

6348 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes
6349 on any property owned by the institution;

6350 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,
6351 or controlled by the institution;

6352 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
6353 instructors, and other employees;

6354 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the
6355 regulations or institution policies required pursuant to § 23.1-1303;

6356 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission
6357 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such
6358 regulations or policies;

6359 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote
6360 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness
6361 and prevention of sexual crimes committed upon students;

6362 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in
6363 accordance with the prohibition against hazing as defined in § 18.2-56;

6364 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an
6365 interest, provided such assignment is in accordance with the terms of the institution's intellectual property
6366 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of
6367 such property (i) developed wholly or predominantly through the use of state general funds, exclusive of
6368 capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned
6369 duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship
6370 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit
6371 organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective
6372 institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the
6373 Governor does not approve such transfer, the materials shall remain the property of the respective institutions
6374 and may be used and developed in any manner permitted by law;

6375 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
6376 electronic communication means pursuant to § 2.2-3708.3; and

6377 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to
6378 enforce state statutes and local ordinances with respect to offenses occurring on the property of the
6379 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and
6380 local ordinances with respect to offenses occurring on the property of the institution.

6381 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

6382 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,
6383 vehicle registration, certificate of title, or other document issued by the Department if such person has not
6384 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled
6385 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or
6386 altered documents.

6387 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle
6388 registration, certificate of title, or other document in violation of the provisions of subsection A.

6389 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
6390 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
6391 provisions of subsection A.

6392 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is
6393 charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any
6394 document issued by the Department for the purpose of engaging in any age-limited activity, including but not
6395 limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is
6396 charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

6397 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
6398 identification card, vehicle registration, certificate of title, or other document issued by the Department has
6399 been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of
6400 the cancellation to the address of record maintained by the Department.

6401 F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any
6402 document issued by the Department, (ii) where any person received or created any counterfeit, forged, or
6403 altered document used to obtain any document issued by the Department, or (iii) where any counterfeit,

6404 forged, or altered document has been filed with the Department.

6405 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card**
6406 **to obtain alcoholic beverages or marijuana; penalties.**

6407 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive
6408 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the
6409 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States
6410 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of
6411 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign
6412 government agency; or official student identification card of an institution of higher education to obtain
6413 alcoholic beverages ~~shall be~~ *or marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a
6414 violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a
6415 motor vehicle for a period of not less than 30 days nor more than one year.

6416 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales or marijuana sales.**

6417 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
6418 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic
6419 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be
6420 the operator of the establishment has allowed it to become a meeting place for persons committing serious
6421 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be
6422 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement
6423 officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of
6424 evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol
6425 *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety
6426 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the
6427 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with
6428 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the
6429 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later
6430 finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change
6431 of ownership, management, or business operations at the establishment, or other change in circumstance.

6432 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall
6433 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic
6434 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

6465 restoration of the right or denial of restoration by the Governor.

6466 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
6467 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

6468 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

6469 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as
6470 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public
6471 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"
6472 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation
6473 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or
6474 relieve those suffering from any injury, deformity or disease.

6475 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
6476 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other
6477 remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the
6478 healing arts within the meaning of this chapter except where persons other than physicians are required to
6479 sign birth certificates.

6480 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing
6481 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation
6482 or designation, or other language that identifies the type of practice for which he is licensed. No person
6483 regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in §
6484 ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However,
6485 nothing in this subsection shall prevent a person from including in any advertisement that such person is
6486 registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written
6487 certifications for the use of cannabis products, as defined in § 4.1-1600.

6488 **§ 54.1-3443. Board to administer article.**

6489 A. The Board shall administer this article and may add substances to or deschedule or reschedule all
6490 substances enumerated in the schedules in this article pursuant to the procedures of the Administrative
6491 Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider
6492 the following:

- 6493 1. The actual or relative potential for abuse;
- 6494 2. The scientific evidence of its pharmacological effect, if known;

6495 3. The state of current scientific knowledge regarding the substance;
6496 4. The history and current pattern of abuse;
6497 5. The scope, duration, and significance of abuse;
6498 6. The risk to the public health;
6499 7. The potential of the substance to produce psychic or physical dependence; and
6500 8. Whether the substance is an immediate precursor of a substance already controlled under this article.

6501 B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a
6502 regulation controlling the substance if it finds the substance has a potential for abuse.

6503 C. If the Board designates a substance as an immediate precursor, substances which are precursors of the
6504 controlled precursor shall not be subject to control solely because they are precursors of the controlled
6505 precursor.

6506 D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall
6507 be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations
6508 pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such
6509 amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it
6510 shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to
6511 any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all
6512 substances it intends to schedule by regulation. The Board shall notify the House and Senate Committees for
6513 Courts of Justice of any new substance added to Schedule I or II pursuant to this subsection. Any substance
6514 added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18
6515 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law
6516 is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from
6517 adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to
6518 the provisions of subsections A, B, and E.

6519 E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law
6520 and notice of such action is given to the Board, the Board may similarly control the substance under this
6521 chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order
6522 or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by
6523 amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the
6524 Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on

6525 the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be
6526 notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by
6527 regulation in such notice.

6528 F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or
6529 tobacco as those terms are defined or used in Title 4.1.

6530 G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the
6531 provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully
6532 sold over the counter without a prescription.

6533 H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled
6534 pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600, ~~18.2-247~~, or
6535 54.1-3401.

6536 **§ 54.1-4426. Accounting services for licensed marijuana establishments.**

6537 A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided
6538 in § 4.1-600.

6539 B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting
6540 services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation
6541 solely for providing such accounting services.

6542 C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed
6543 marijuana establishment.

6544 **§ 58.1-301. Conformity to Internal Revenue Code.**

6545 A. Any term used in this chapter shall have the same meaning as when used in a comparable context in
6546 the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

6547 B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall
6548 mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of
6549 the laws of the United States relating to federal income taxes, except for:

6550 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m),
6551 1400L, and 1400N of the Internal Revenue Code;

6552 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal
6553 Revenue Code;

6554 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the

6555 Internal Revenue Code;

6556 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax
6557 purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable
6558 debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall
6559 be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to
6560 include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period
6561 beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-
6562 year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before
6563 April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code
6564 shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of
6565 indebtedness in connection with the reacquisition of an "applicable debt instrument";

6566 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on
6567 itemized deductions under § 68(f) of the Internal Revenue Code;

6568 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable
6569 years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set
6570 forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed
6571 for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the
6572 threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for
6573 medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross
6574 income;

6575 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic
6576 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

6577 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.
6578 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

6579 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.
6580 116-136 (2020), related to the limitation on business interest;

6581 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3),
6582 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
6583 Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the
6584 federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases

6585 for certain loan forgiveness and other business financial assistance; ~~and~~

6586 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would
6587 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the
6588 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall
6589 not apply to any amendment to federal income tax law that is either subsequently adopted by the General
6590 Assembly or a federal tax extender as defined in subdivision b.

6591 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of
6592 the previous regular session of the General Assembly and the first day of the subsequent regular session of
6593 the General Assembly if the cumulative projected impact of such amendments would increase or decrease
6594 general fund revenues by greater than \$75 million in the fiscal year in which the amendments were enacted or
6595 any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment
6596 to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender
6597 as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met.
6598 However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the \$75
6599 million threshold for purposes of determining whether such threshold has been met.

6600 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based
6601 on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as
6602 published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the
6603 previous year.

6604 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law
6605 or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold
6606 impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of
6607 a federal tax provision to which Virginia conforms or has previously conformed.

6608 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and
6609 Appropriations and the House Committees on Appropriations and Finance, shall be responsible for
6610 determining whether the criteria of subdivision a are met.

6611 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the
6612 fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the
6613 preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and

6614 Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall
6615 also provide updates to the same Chairmen on any further amendments to federal income tax law occurring
6616 between submission of the required report and the first day of the subsequent regular session of the General
6617 Assembly; and

6618 *12. For taxable years beginning on and after January 1, 2026, the prohibition on utilizing tax deductions*
6619 *for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in*
6620 *Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) under § 280E of the Internal Revenue*
6621 *Code.*

6622 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for
6623 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the
6624 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

6625 **§ 59.1-200. Prohibited practices.**

6626 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
6627 transaction are hereby declared unlawful:

6628 1. Misrepresenting goods or services as those of another;

6629 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

6630 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
6631 with another;

6632 4. Misrepresenting geographic origin in connection with goods or services;

6633 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
6634 benefits;

6635 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

6636 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
6637 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
6638 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
6639 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
6640 "not first class";

6641 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
6642 price or upon the terms advertised.

6643 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;

6673 16. Failing to disclose all conditions, charges, or fees relating to:

6674 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
6675 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
6676 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
6677 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
6678 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
6679 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
6680 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
6681 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
6682 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
6683 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
6684 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
6685 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
6686 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
6687 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

6688 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
6689 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
6690 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
6691 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

6692 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
6693 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
6694 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
6695 overpayments. If the credit balance information is incorporated into statements of account furnished
6696 consumers by suppliers within such 60-day period, no separate or additional notice is required;

6697 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
6698 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

6699 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

6700 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

6701 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

6702 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17

- 6703 et seq.);
- 6704 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 6705 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
- 6706 seq.);
- 6707 24. Violating any provision of § 54.1-1505;
- 6708 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
- 6709 (§ 59.1-207.34 et seq.);
- 6710 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 6711 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 6712 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 6713 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 6714 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 6715 seq.);
- 6716 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 6717 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 6718 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 6719 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 6720 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 6721 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 6722 consumer's social security number;
- 6723 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 6724 37. Violating any provision of § 8.01-40.2;
- 6725 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 6726 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 6727 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 6728 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 6729 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
- 6730 § 59.1-526;
- 6731 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 6732 43. Violating any provision of § 59.1-443.2;
- 6733 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

- 6734 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 6735 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 6736 47. Violating any provision of § 18.2-239;
- 6737 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 6738 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 6739 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 6740 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 6741 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 6742 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 6743 products that are used, secondhand or "seconds";
- 6744 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 6745 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 6746 52. Violating any provision of § 8.2-317.1;
- 6747 53. Violating subsection A of § 9.1-149.1;
- 6748 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 6749 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 6750 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 6751 drywall has been permanently installed or affixed;
- 6752 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 6753 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 6754 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 6755 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 6756 seq.) of Title 54.1;
- 6757 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 6758 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 6759 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 6760 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 6761 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 6762 59. Violating any provision of subsection E of § 32.1-126;
- 6763 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

6795 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
6796 accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to~~
6797 ~~standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting~~
6798 ~~body~~ *a licensed marijuana testing facility*, that states the tetrahydrocannabinol concentration of the substance
6799 or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision
6800 shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
6801 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted
6802 under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;

6803 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
6804 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
6805 that depicts or is in the shape of a human, animal, vehicle, or fruit;

6806 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
6807 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
6808 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
6809 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
6810 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
6811 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

6812 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
6813 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
6814 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
6815 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
6816 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
6817 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

6818 75. Violating any provision of § 59.1-466.8;

6819 76. Violating subsection F of § 36-96.3:1;

6820 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
6821 kratom product that does not include a label listing all ingredients and with the following guidance: "This
6822 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
6823 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
6824 plant *Mitragyna speciosa* or any extract thereof;

6825 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
6826 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
6827 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
6828 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
6829 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
6830 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
6831 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
6832 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
6833 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
6834 location;

6835 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
6836 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
6837 such good or provision of any such continuous service;

6838 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

6839 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
6840 residential dwelling without holding a mold remediation certification from a nationally or internationally
6841 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
6842 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
6843 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent
6844 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
6845 Commonwealth;

6846 82. Willfully violating any provision of § 59.1-444.4;

6847 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

6848 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
6849 requirements of 21 C.F.R. Part 101;

6850 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual
6851 health information without the consent of the consumer;

6852 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

6853 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
6854 seq.).

6855 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
6856 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
6857 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
6858 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

6859 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.

6860 3. That the following provisions shall become effective on November 1, 2026: (i) §§ 2.2-2499.8, 3.2-4113,
6861 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,
6862 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,
6863 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,
6864 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,
6865 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,
6866 54.1-3443, and 59.1-200 of the Code of Virginia, as amended by this act; (ii) §§ 4.1-1102 through
6867 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
6868 4.1-1303 through 4.1-1309 of the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1,
6869 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as repealed by this act.

6870 4. That by October 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to
6871 100 microbusiness licenses pursuant to § 4.1-803 of the Code of Virginia, as created by this act, to
6872 applicants that (i) (a) are industrial hemp processors or growers that (1) are registered with the
6873 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of
6874 Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, and are in good
6875 standing as of July 1, 2026 or (2) were previously registered with the Commissioner of Agriculture and
6876 Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia,
6877 completed such registration prior to January 1, 2021, were in good standing prior to forfeiting such
6878 registration or allowing such registration to expire, and have established the reason for the previous
6879 forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance
6880 issues related to the previous registration; (b) qualify as an impact license applicant pursuant to
6881 subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act; or (c) qualify as a farmer
6882 under the U.S. Department of Agriculture qualifications and (ii) meet any applicable licensing
6883 requirements and financial, security, and operational readiness criteria as established by the
6884 Authority. The Authority shall begin accepting applications for such microbusiness licenses no later
6885 than July 1, 2026.

5. That a pharmaceutical processor issued a permit by the Board of Directors (the Board) of the Virginia Cannabis Control Authority (the Authority) pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the Code of Virginia shall apply to the Board for dual-use privileges pursuant to § 4.1-1602.1 of the Code of Virginia, as created by this act, in a manner prescribed by the Board between July 1, 2026, and November 1, 2026. No later than July 1, 2026, the Authority shall create a streamlined application process for pharmaceutical processors to apply for such dual-use privileges which shall include a requirement that a pharmaceutical processor submit to and obtain approval from the Authority for a detailed medical cannabis program preservation plan describing how such processor will prioritize sales and access to medical cannabis products for qualifying patients, including a plan for managing customer traffic flow, preventing supply shortages, and ensuring appropriate staffing. Provided the applicable licensing requirements are met and upon the payment of a one-time \$10 million fee to the Authority by the pharmaceutical processor, by November 1, 2026, the Board shall verify that such pharmaceutical processor and its cannabis dispensing facilities may exercise dual-use privileges. On and after November 1, 2026, a pharmaceutical processor issued a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the Code of Virginia who has not applied for verification to exercise dual-use privileges and paid the conversion fee shall not exercise such dual-use privileges or renew its permit.

6. That by November 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to 10 licenses, consisting of no more than five marijuana cultivation facility licenses and no more than five marijuana processing facility licenses, to applicants that are industrial processors or growers that (i)(a) are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration prior to January 1, 2021, or (b) (1) were previously registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia; (2) completed such registration prior to January 1, 2021; (3) were in good standing prior to forfeiting such registration or allowing such registration to expire; and (4) have established the reason for the previous forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance issues related to the previous registration; (ii) meet any applicable licensing requirements; and (iii) pay a one-time \$500,000 fee to the Authority. No later than July 1, 2026, the Authority shall create a streamlined application process for such industrial hemp processors or growers to apply for such licenses.

7. That the Virginia Cannabis Control Authority (the Authority) may, on and after, July 1, 2026, begin

6917 accepting license applications from all applicants and issuing licenses pursuant to the provisions of
6918 § 4.1-1000 of the Code of Virginia, as created by this act.

6919 8. That in addition to the 100 microbusiness licenses required to be issued by October 1, 2026, pursuant
6920 to the fourth enactment of this act, by November 1, 2026, the Virginia Cannabis Control Authority (the
6921 Authority) shall have (i) verified the pharmaceutical processors' dual-use privileges as required by the
6922 fifth enactment of this act; (ii) issued no more than five marijuana cultivation facility licenses and no
6923 more than five marijuana processing facility licenses to industrial hemp growers or processors as
6924 required by the sixth enactment of this act; and (iii) issued at least 55 additional licenses in total
6925 distributed among impact licensees, tier I marijuana cultivation facilities, and tier II marijuana
6926 cultivation facilities.

6927 9. Notwithstanding the third enactment of this act, any applicant issued a license by the Authority or
6928 pharmaceutical processor who the Board has verified may exercise dual-use privileges may operate in
6929 accordance with the provisions of this act prior to November 1, 2026; however, prior to November 1,
6930 2026, no licensee may engage in the retail sale of marijuana, marijuana products, immature marijuana
6931 plants, or marijuana seeds, unless such licensee is a pharmaceutical processor or cannabis dispensing
6932 facility and is acting in accordance with the provisions of Chapter 16 (§ 4.1-1600 et seq.) of the Code of
6933 Virginia. Notwithstanding any other provision of law, on or after July 1, 2026, and prior to November
6934 1, 2026, no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana
6935 transporter licensee, marijuana delivery operator, retail marijuana store licensee, microbusiness
6936 licensee, marijuana testing facility licensee, or agent or employee thereof shall be subject to arrest or
6937 prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or
6938 § 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
6939 of the Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by
6940 this act, involving marijuana if such violation is related to acts committed within the scope of the
6941 permit, licensure, or employment and in accordance with the provisions of the Cannabis Control Act
6942 (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. By no later than January 1, 2027, the
6943 Board shall have promulgated regulations governing outdoor growth pursuant to § 4.1-606 of the Code
6944 of Virginia, as amended by this act.

6945 10. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-
6946 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by September 1, 2026.

6947 11. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits

6948 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze
6949 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility
6950 licensees, and (iii) report its finding to the General Assembly by November 1, 2026. The Authority shall
6951 continue such analysis and submit updated findings to the General Assembly for two years after such
6952 initial report and shall submit such updated findings by November 1 during the two subsequent years.

6953 12. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
6954 promulgate regulations to implement the provisions of this act by September 1, 2026. With the
6955 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process
6956 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
6957 thereto shall apply to the Board's initial adoption of such regulations.

6958 13. That, from July 1, 2026, to July 1, 2027, the Virginia Cannabis Control Authority (the Authority)
6959 shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into
6960 the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as
6961 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license
6962 fees.

6963 14. That the provisions of the first enactment of this act amending subsection B of § 4.1-614 of the Code
6964 of Virginia, as amended by this act, shall become effective July 1, 2028.

6965 15. That the Joint Commission to Oversee the Transition of the Commonwealth into a Cannabis Retail
6966 Market (the Joint Commission) shall consider and make recommendations on (i) the establishment and
6967 implementation of (a) on-site consumption licenses allowing adults to use cannabis on the premises of a
6968 licensed marijuana establishment and (b) microbusiness cannabis event permits allowing
6969 microbusiness licensees to hold temporary age-restricted sales events at approved venues such as
6970 farmers markets or pop-up locations where such licensees may sell marijuana or marijuana products
6971 directly to consumers outside of their licensed premises and (ii) the benefits, limitations, and feasibility
6972 of the Virginia Alcoholic Beverage Control Authority's involvement in the enforcement of laws and
6973 regulations related to the cannabis retail market in the Commonwealth. The Joint Commission shall
6974 report its findings and recommendations to the Chairs of the House Committee on General Laws and
6975 the Senate Committee on Rehabilitation and Social Services by November 1, 2026.

6976 16. That the Virginia Department of Education (the Department), with assistance from the Virginia
6977 Cannabis Control Authority (the Authority) and other appropriate agencies, local school divisions, and

6978 appropriate experts, shall implement a plan to ensure that teachers have access to sufficient
6979 information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use
6980 among the youth and about substance abuse, as provided in the 2025 Health Standards of Learning.

6981 The Department shall (i) review resources currently provided to teachers to determine if additional or
6982 updated material or lesson ideas are needed and (ii) provide or develop any additional materials and
6983 resources deemed necessary and make the same available to teachers by January 1, 2027.

6984 17. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall
6985 develop a plan for introducing teachers, particularly those teaching health, to the information and
6986 resources available to them to assist them in teaching the 2025 Health Standards of Learning as it
6987 relates to marijuana use. Such plan shall include providing professional development webinars as soon
6988 as practicable, as well as ongoing periodic professional development relating to marijuana, as well as
6989 alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of
6990 implementation and any potential source of funds to cover such cost and shall be submitted to the
6991 Governor and the General Assembly by November 1, 2026.

6992 18. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia
6993 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and
6994 Developmental Services shall work with existing collegiate recovery programs to determine what, if
6995 any, additional evidence-based efforts should be undertaken for college-age individuals to promote
6996 education and prevention strategies relating to marijuana. The plan shall include the estimated cost of
6997 implementation and any potential source of funds to cover such cost and shall be submitted to the
6998 Governor and the General Assembly by November 1, 2026.

6999 19. That the provisions of this act may result in a net increase in periods of imprisonment or
7000 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
7001 appropriation is _____ for periods of imprisonment in state adult correctional facilities; therefore,
7002 Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to
7003 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the
7004 estimated amount of the necessary appropriation is _____ for periods of commitment to the custody
7005 of the Department of Juvenile Justice.