

HOUSE BILL NO. 665

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Communications, Technology and Innovation

on _____)

(Patron Prior to Substitute—Delegate Maldonado)

A BILL to amend and reenact § 59.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Subtitle III of Title 6.2 a chapter numbered 22.2, consisting of sections numbered 6.2-2239 through 6.2-2266, relating to financial institutions and services; virtual currency kiosk operators; license required; penalties.

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-200 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Subtitle III of Title 6.2 a chapter numbered 22.2, consisting of sections numbered 6.2-2239 through 6.2-2266, as follows:

CHAPTER 22.2.

VIRTUAL CURRENCY KIOSKS.

§ 6.2-2239. Definitions.

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

"Blockchain analytics" means the analysis of data from blockchains or public distributed ledgers, including associated transaction information.

"Blockchain analytics and tracing software" means a software service that uses blockchain analytics data to provide risk-specific information and tracing of virtual currency wallet addresses.

"Charge" means a fee or expense paid by a user, including any difference between the market price of virtual currency and the price of such virtual currency charged to the user. "Charge" includes standard transaction fees, fees for wallet creation, exchange fees, and transfer fees.

"Licensee" means a virtual currency kiosk operator licensed pursuant to the provisions of this chapter.

"Location" means the physical location of a virtual currency kiosk within the Commonwealth.

"New user" means a person who completes a transaction through a virtual currency kiosk located in the Commonwealth and includes such person for a period of 14 days after such transaction. A person who transacts on three or more days within such period is considered a user and is no longer subject to the transaction limits applicable to new users after such period has elapsed.

"Principal" means any person that, directly or indirectly, owns or controls a 10 percent or greater interest in any form of entity.

33 *"User" means any person who initiates, authorizes, or completes a transaction involving virtual currency*
34 *through a virtual currency kiosk for the purpose of purchasing, selling, transferring, or otherwise exchanging*
35 *virtual currency.*

36 *"Virtual currency" has the same meaning as provided in § 6.2-818.1.*

37 *"Virtual currency address" means an alphanumeric identifier associated with a virtual currency wallet*
38 *identifying the location to which a virtual currency transaction can be sent.*

39 *"Virtual currency kiosk" means an electronic terminal operated by a virtual currency kiosk operator to*
40 *facilitate the exchange of virtual currency for money, bank credit, or other virtual currency, including by*
41 *connecting directly to a separate virtual currency exchange that performs the transmission of virtual*
42 *currency or by drawing upon the virtual currency in the possession of the virtual currency kiosk operator.*

43 *"Virtual currency kiosk operator" or "operator" means a person that owns, operates, or manages a*
44 *virtual currency kiosk located in the Commonwealth, regardless of whether such person provides custodial or*
45 *non-custodial services.*

46 *"Virtual currency wallet" means a software application or other mechanism that provides a means to hold*
47 *the keys necessary to access or transfer virtual currency.*

48 **§ 6.2-2240. Minimum standards.**

49 *The provisions of this chapter establish minimum standards of conduct for virtual currency kiosk*
50 *operators, and no provision of this chapter shall be construed to (i) limit the authority of any county,*
51 *municipality, or other political subdivision of the Commonwealth to adopt or enforce ordinances,*
52 *regulations, resolutions, or rules that are more stringent than those set forth herein or (ii) preempt or nullify*
53 *any local law that provides greater protections, requirements, or restrictions than those set forth herein.*

54 **§ 6.2-2241. License required.**

55 *No virtual currency kiosk operator shall (i) engage or offer to engage in a virtual currency kiosk*
56 *transaction with or on behalf of any other person or (ii) locate or permit a third party to locate a virtual*
57 *currency kiosk in the Commonwealth, except after first obtaining a license from the Commission pursuant to*
58 *this chapter. Any virtual currency transaction made in violation of this section is void, and no person shall*
59 *have the right to collect, receive, or retain any charge in connection with such transaction.*

60 **§ 6.2-2242. Application for license; form; content; fee.**

61 *A. An application for a license under this chapter shall be made in writing, under oath, and on a form*
62 *provided by the Commissioner.*

63 *B. The application shall set forth:*

1. The name and address of the applicant and (i) if the applicant is a partnership, firm, or association, the name and address of each partner or member; (ii) if the applicant is a corporation or limited liability company, the name and address of each director, member, registered agent, and principal; or (iii) if the applicant is a business trust, the name and address of each trustee and beneficiary;

2. The addresses of the locations of the virtual currency kiosk operator to be licensed; and

3. Such other information concerning the financial responsibility, background, experience, and activities of the applicant and its members, senior officers, directors, and principals as the Commissioner may require.

C. The application shall be accompanied by payment of an application fee of a reasonable amount that the Commission may prescribe.

D. The application fee shall not be refundable in any event. The fee shall not be abated by surrender, suspension, or revocation of the license.

§ 6.2-2243. Bond required.

An application for a license under this chapter shall be accompanied by a bond filed with the Commissioner with corporate surety authorized to execute the bond in the Commonwealth and in the principal amount as determined by the Commission. The amount of the bond shall be not less than \$1,000 nor more than \$25,000. The form of the bond shall be approved by the Commission. The bond shall be continuously maintained thereafter in full force, and the Commission may require the principal amount to be adjusted as it deems necessary. The bond shall be conditioned upon the licensee performing all written agreements with consumers and conducting the licensed business in conformity with this chapter and all applicable law. Any person who may be damaged by noncompliance of the licensee with any condition of the bond may proceed on the bond against the principal or surety thereon, or both, to recover damages. The aggregate liability under the bond shall not exceed the penal sum of the bond.

§ 6.2-2244. Investigation of applications.

The Commissioner may make such investigations as he deems necessary to determine if the applicant has complied with all applicable provisions of law and regulations adopted thereunder.

§ 6.2-2245. Qualifications.

A. Upon the filing and investigation of an application for a license, and compliance by the applicant with the provisions of §§ 6.2-2242 and 6.2-2243, the Commission shall issue and deliver to the applicant the license to engage in business under this chapter at the locations specified in the application if it finds that the financial responsibility, character, reputation, experience, and general fitness of the applicant and its members, senior officers, directors, trustees, and principals are such as to warrant belief that the business

will be operated efficiently and fairly, in the public interest, and in accordance with law.

B. If the Commission fails to make such findings, no license shall be issued and the Commissioner shall notify the applicant of the denial and the reasons for such denial.

§ 6.2-2246. Licenses; place of business; changes.

A. Each license shall state the licensee's principal place of business and the legal name of the licensee as well as any fictitious name by which the licensee is operating in the Commonwealth. Licenses shall not be transferable or assignable, by operation of law or otherwise. No licensee shall use or permit any name to appear on a virtual currency kiosk other than the legal name or fictitious name set forth on the license issued by the Commission.

B. No licensee shall open an additional virtual currency kiosk or relocate any virtual currency kiosk without providing written notice to the Commission within 10 days after such opening or relocation.

C. Every licensee shall notify the Commissioner in writing within 10 days after the removal or deactivation of any virtual currency kiosk and, if applicable, of the name, address, and position of each new senior officer, member, partner, or director and provide any other information with respect to any change as the Commissioner may reasonably require.

D. Every license shall remain in force until it is surrendered, revoked, or suspended. The surrender, revocation, or suspension of a license shall not affect any preexisting legal right or obligation of such licensee.

§ 6.2-2247. Acquisition of control; application.

A. Except as provided in this section, no person shall acquire, directly or indirectly, 25 percent or more of the voting shares of a corporation or 25 percent or more of the ownership of any other licensee under this chapter unless such person has:

1. Filed an application with the Commission in such form as the Commissioner may prescribe from time to time;

2. Delivered such other information to the Commissioner as the Commissioner may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, trustees, beneficiaries, principals, and members, and any proposed new directors, senior officers, principals, or members of the licensee; and

3. Paid such application fee as the Commission may prescribe.

B. Upon the filing and investigation of an application, the Commission shall permit the applicant to acquire the interest in the licensee if it finds that the applicant and its directors, senior officers, members,

trustees, beneficiaries, and principals, and any proposed new directors, senior officers, principals, or members of the licensee have the financial responsibility, character, reputation, experience, and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law. The Commission shall grant or deny the application within 60 days from the date a completed application accompanied by the required fee is filed unless the period is extended by the Commissioner reciting the reasons for the extension. If the application is denied, the Commission shall notify the applicant of the denial and the reasons for the denial.

C. The provisions of this section shall not apply to (i) the acquisition of an interest in a licensee, directly or indirectly, including an acquisition by merger or consolidation, by or with a person licensed by this chapter; (ii) the acquisition of an interest in a licensee, directly or indirectly, including an acquisition by merger or consolidation, by or with a person affiliated through common ownership with the licensee; or (iii) the acquisition of an interest in a licensee by a person by bequest, descent, survivorship, or operation of law. The person acquiring an interest in a licensee in a transaction that is exempt from filing an application by this subsection shall send written notice to the Commissioner of such acquisition within 30 days of its closing.

§ 6.2-2248. Retention of books, accounts, and records; responding to Bureau.

A. Every licensee shall maintain in its licensed offices such books, accounts, and records as the Commission may reasonably require in order to determine whether the licensee is complying with the provisions of this chapter and other applicable laws. Such books, accounts, and records shall be maintained separately from any other business in which the licensee is involved.

B. When the Bureau requests a written response, books, records, documentation, or other information from a licensee in connection with the Bureau's investigation, enforcement, or examination of compliance with applicable laws, the licensee shall deliver a written response, as well as any requested books, records, documentation, or information within the time period specified in the Bureau's request. If no time period is specified, a written response, as well as any requested books, records, documentation, or information, shall be delivered by the licensee to the Bureau not later than 30 days from the date of such request. In determining the specified time period for responding to the Bureau and when considering a request for an extension of time to respond, the Bureau shall take into consideration the volume and complexity of the requested written response, books, records, documentation, or information and such other factors as the Bureau determines to be relevant under the circumstances.

§ 6.2-2249. Annual and quarterly reports.

A. Annually on or before March 31, each licensee under this chapter shall file a written report with the

157 Commissioner containing such information as the Commissioner may require concerning its business and
158 operations during the preceding calendar year in each location. Reports shall be made under oath in the
159 form prescribed by the Commissioner and shall include the following information:

160 1. The gross revenue attributable to virtual currency transactions conducted via virtual currency kiosks
161 operated by the licensee in the Commonwealth;

162 2. A copy of each complaint filed by a user against the licensee with the Better Business Bureau or any
163 state or federal agency other than the Commission and a description of the resolution, if any, of such
164 complaint;

165 3. The total number and value of virtual currency transactions conducted via virtual currency kiosks
166 operated by the licensee in the Commonwealth;

167 4. The total dollar amount of any refunds the licensee provided to users;

168 5. The contact information of the licensee's compliance officer, if applicable;

169 6. The total number of virtual currency kiosk locations;

170 7. The virtual currency address used by the licensee to provide service to users at each location; and

171 8. The total number and gross dollar amount of suspicious activity reports filed by the licensee pursuant
172 to the federal Bank Secrecy Act (31 U.S.C. § 5311 et seq.).

173 B. In addition to the annual report required by subsection A, each licensee shall file with the Commission
174 a quarterly report for each virtual currency kiosk location within the Commonwealth within 45 days after the
175 end of each quarter. Such quarterly report shall include the following information:

176 1. The legal name of the location;

177 2. Any fictitious or trade name of the location;

178 3. The location's physical address;

179 4. The start date of the virtual currency kiosk's operation at the location;

180 5. The end date of operation of the virtual currency kiosk's operation at the location, if applicable;

181 6. The virtual currency address used by the licensee to provide service to users at the location; and

182 7. The number of transactions declined due to suspicion of illicit activity.

183 C. A licensee shall provide any transaction and user information requested by the Commission, including
184 information relating to transactions that were attempted and denied.

185 D. Data collected by the Commission pursuant to this section is confidential and may only be released in
186 an aggregated form except as otherwise required by law. The Commissioner shall publish annually and make
187 available to the public an analysis of the information required under this section and other information the

Commissioner may choose to include.

§ 6.2-2250. Other reporting requirements.

Within 15 days following the occurrence of any of the following events, a licensee shall file a written report with the Commission describing such event and its expected impact on the business of the licensee:

1. The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;

2. The institution of administrative or regulatory proceedings against the licensee by any governmental authority;

3. Any felony indictments of the licensee or any of its members, partners, directors, officers, trustees, beneficiaries, or principals, if known;

4. Any felony conviction of the licensee or any of its members, partners, directors, officers, trustees, beneficiaries, or principals, if known;

5. The institution of an action against the licensee under the Virginia Consumer Protection Act (§ 59.1-196 et seq.) by the Attorney General or any other governmental authority; or

6. Such other event as the Commission may prescribe by regulation.

§ 6.2-2251. Investigations; examinations.

A. The Commission may, by its designated officers and employees, as often as it deems necessary, investigate and examine the affairs, business, premises, and records of any person licensed or required to be licensed under this chapter insofar as they pertain to any business for which a license is required by this chapter. Examinations of licensees shall be conducted at least once in each three-year period. In the course of such investigations and examinations, the owners, members, officers, directors, partners, trustees, beneficiaries, and employees of such person being investigated or examined shall, upon demand of the person making such investigation or examination, afford full access to all premises, books, records, and information that the person making such investigation or examination deems necessary. For the purposes of this section, the person making such investigation or examination shall have authority to administer oaths, examine under oath all the aforementioned persons, and compel the production of papers and objects of all kinds.

B. If a person licensed or required to be licensed under this chapter owns, operates, or manages a virtual currency kiosk that is located on the premises of a business that is conducted by a third party, then the agreement between the third party and the person licensed or required to be licensed shall obligate the third party to grant the Commission full access to the virtual currency kiosk and its vicinity.

§ 6.2-2252. Annual fees.

A. To defray the costs of the examination, supervision, and regulation of licensees, every licensee under

219 *this chapter shall pay an annual fee calculated in accordance with a schedule set by the Commission. The*
220 *schedule shall bear a reasonable relationship to the business volume of licensees, to the actual costs of their*
221 *examinations, and to other factors relating to their supervision and regulation. All such fees shall be assessed*
222 *on or before August 1 for every calendar year. All such fees shall be paid by the licensee to the State*
223 *Treasurer on or before September 1 following each assessment.*

224 *B. In addition to such annual fee, when necessary to examine or investigate the books and records of a*
225 *licensee under this chapter at a location outside the Commonwealth, the licensee shall be liable for and shall*
226 *pay to the Commission within 30 days of the presentation of an itemized statement the actual travel and*
227 *reasonable living expenses incurred on account of its examination, supervision, and regulation, or shall pay*
228 *at a reasonable per diem rate approved by the Commission.*

229 **§ 6.2-2253. Required disclosures.**

230 *A. A licensee shall disclose in a clear, conspicuous, and reasonably understandable manner in the chosen*
231 *language of the user all relevant terms and conditions associated with the products, services, and activities of*
232 *virtual currency transactions, including transaction charges collected and exchange rates used by the*
233 *licensee.*

234 *B. Each time a user engages with a virtual currency kiosk, the licensee shall collect the user's*
235 *acknowledgement of receipt of all disclosures required by this section via confirmation of consent at the*
236 *virtual currency kiosk.*

237 *C. In addition to the disclosure required by subsection A, a licensee shall provide the following disclosure*
238 *to each user:*

239 *"WARNING: This technology can be used to defraud you.*

240 *If someone asked you to deposit money in this machine or is on the phone with you and claims to be a*
241 *friend or family member, government agent, computer software representative, bill collector, law-*
242 *enforcement officer, or anyone you do not know personally:*

243 *STOP THIS TRANSACTION IMMEDIATELY and contact your local law enforcement and the kiosk*
244 *operator. This may be a scam. NEVER SEND MONEY to someone you don't know."*

245 *D. A licensee shall disclose the material risks associated with virtual currency and virtual currency*
246 *transactions to the user on both the physical virtual currency kiosk and on the screen, including:*

247 *1. The following statement: "Virtual currency is not backed by the U.S. government and is not legal tender*
248 *in the United States. Virtual currency is not subject to Federal Deposit Insurance Corporation, National*
249 *Credit Union Administration, or Securities Investor Protection Corporation protections and its value relative*

to the U.S. dollar may fluctuate significantly."

2. The name, address, and telephone number of the owner of the kiosk and the means by which a user can contact the owner for assistance and any relevant state or local law-enforcement or government agency for reporting fraud.

3. Any other disclosure that the Commission may require.

§ 6.2-2254. Prevention of fraudulent activity and money laundering.

A. Each licensee shall take reasonable steps to detect and prevent fraud and money laundering, including by establishing and maintaining a written antifraud policy and abiding by all relevant provisions of the federal Bank Secrecy Act (31 U.S.C. § 5311 et seq.). Such policy shall include (i) identification and assessment of fraud and money laundering-related risk areas; (ii) procedures and controls to protect against identified risks; (iii) the allocation of responsibility for monitoring risks; and (iv) procedures for the periodic evaluation and revision of such policy, procedures, and controls.

B. Each licensee shall use blockchain analytics and tracing software to assist in the prevention of sending virtual currency to a virtual currency wallet known or likely to be affiliated with fraudulent activity at the time of a transaction and to detect transaction patterns indicative of fraud or other illicit activities. A licensee shall block transactions to virtual currency wallets associated with overseas exchanges non-accessible to U.S. users. The Commission may request evidence from any virtual currency kiosk operator of their current use of blockchain analytics.

C. Each licensee shall post a conspicuous written warning within readable sight of the virtual currency kiosk providing notice to users that criminals may direct victims of fraud or scams to send money via virtual currency kiosks. Such warning shall include the kiosk operator's toll-free customer service phone number.

D. For each attempted virtual currency transaction, the licensee or its agent shall verify the identity of the user prior to accepting payment, including by obtaining a copy of a government-issued identification card that identifies the user and by collecting additional user information including the user's name, date of birth, telephone number, address, and email address. No licensee shall allow a user to engage in any transaction at a virtual currency kiosk under any name, account, or identity other than the user's own true name and identity.

E. On an annual basis, each licensee shall provide each location with staff training materials that outline how criminals may exploit virtual currency kiosks for illicit activity, including red flag indicators that a virtual currency kiosk user may be the victim of fraud or a scam and common signs of financial abuse and exploitation. No licensee shall prohibit or prevent staff at the location of a virtual currency kiosk from

281 *educating users about fraud and scams.*

282 *F. In cases related to fraud, a licensee shall issue a refund to the user of any transaction fees at the time*
283 *of the transaction, paid in the originating currency and regardless of any acknowledgements made by the*
284 *user prior to finalizing such transaction. To receive a full refund, a user shall (i) have engaged in a*
285 *transaction involving a virtual currency kiosk that was affected by fraud, whether authorized or*
286 *unauthorized; (ii) inform the virtual currency kiosk operator of the fraudulent nature of the transaction at*
287 *issue within 90 days after such transaction; and (iii) submit a police report, government agency report, or*
288 *sworn statement detailing the fraudulent nature of the transaction to the virtual currency kiosk operator*
289 *within 120 days after such transaction.*

290 **§ 6.2-2255. Transaction limits; new user requirements.**

291 *A. No licensee shall accept a transaction of greater than \$2,000 in U.S. dollars or the equivalent in virtual*
292 *currency for any new user per day. A licensee's maximum daily transaction limit for a user shall not exceed*
293 *\$5,000, and a licensee's maximum monthly transaction limit for any user or new user shall not exceed*
294 *\$10,000.*

295 *B. A licensee shall hold each virtual currency kiosk transaction made by a new user for a period of at*
296 *least 48 hours, after which the licensee shall complete such transaction. No licensee shall permit a new user*
297 *to complete a virtual currency kiosk transaction until such hold period has elapsed. During such hold period,*
298 *the new user may contact the licensee to request the cancellation and full refund of such transaction.*

299 **§ 6.2-2256. Maximum charge.**

300 *No licensee shall collect any charge from a user relating to a single virtual currency kiosk transaction*
301 *that exceeds 18 percent of the value of such transaction. Such percentage shall include any charge related to*
302 *the annual fee required by § 6.2-2252.*

303 **§ 6.2-2257. Customer service requirements.**

304 *Each licensee in operation shall provide users live customer service during all operating hours and*
305 *including the hours between 8 a.m. and 10 p.m. each day. A customer service toll-free phone number shall be*
306 *displayed on each virtual currency kiosk or screen.*

307 **§ 6.2-2258. Law enforcement access to investigative information.**

308 *Each licensee shall maintain and monitor a dedicated communications line for relevant government*
309 *agencies via a posted U.S. phone number or email address. Such line shall be used to facilitate law-*
310 *enforcement and regulatory agency communications with the licensee in the event of a fraud report from a*
311 *user. Upon receipt of a subpoena issued pursuant to § 19.2-10.1, a licensee shall provide law enforcement*

with its trace findings upon request and grant the agency assistance with blockchain analytics to assist in any investigative matters related to potential fraud.

§ 6.2-2259. Regulations.

The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content and shall afford interested parties an opportunity to be heard, in accordance with the Commission's Rules.

§ 6.2-2260. Advertising.

No person licensed or required to be licensed under this chapter shall use or cause to be published any advertisement that (i) contains any false, misleading, or deceptive statement or representation or (ii) identifies the person by any name other than the name set forth on the license issued by the Commission. No licensee shall advertise or use in any manner the words "automated teller machine" or "ATM" in connection with a virtual currency kiosk.

§ 6.2-2261. Suspension or revocation of license.

A. The Commission may suspend or revoke any license issued under this chapter upon any of the following grounds:

1. Any ground for denial of a license under this chapter;
2. Any violation of the provisions of this chapter or regulations adopted by the Commission pursuant thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's business;
3. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;
4. Entry of a judgment against the licensee involving fraud, misrepresentation, or deceit;
5. Entry of a federal or state administrative order against the licensee for violation of any law or any regulation applicable to the conduct of his business;
6. Refusal to permit an investigation or examination by the Commission;
7. Failure to pay any fee or assessment imposed by this chapter; or
8. Failure to comply with any order of the Commission.

B. For the purposes of this section, acts of any senior officer, director, member, partner, trustee, beneficiary, or principal shall be deemed acts of the licensee.

§ 6.2-2262. Cease and desist orders.

A. If the Commission determines that any person has violated any provision of this chapter or any regulation adopted hereunder, the Commission may, upon 21 days' notice in writing, order such person to cease and desist from such practices and to comply with the provisions of this chapter. The notice shall be

343 sent by certified mail to the principal place of business of such person or other address authorized under
344 § 12.1-19.1 and shall state the grounds for the contemplated action. Within 14 days of mailing the notice, the
345 person or persons named therein may file with the clerk of the Commission a written request for a hearing. If
346 a hearing is requested, the Commission shall not issue a cease and desist order except based upon findings
347 made at such hearing. Such hearing shall be conducted in accordance with the Commission's Rules. The
348 Commission may enforce compliance with any order issued under this section by imposition and collection of
349 such fines and penalties as may be prescribed by law.

350 B. When, in the opinion of the Commission, immediate action is required to protect the public interest, a
351 cease and desist order may be issued without prior hearing. In such cases, the Commission shall make a
352 hearing available to the person on an expedited basis.

353 C. The Commission shall have jurisdiction to enter and enforce a cease and desist order against any
354 person, regardless of whether such person is present in the Commonwealth, who violates any provision of
355 this chapter or any regulation adopted hereunder.

356 **§ 6.2-2263. Notice of proposed suspension or revocation.**

357 The Commission shall not revoke or suspend the license of any person licensed under this chapter upon
358 any of the grounds set forth in § 6.2-2261 until it has given the licensee 21 days' notice in writing of the
359 reasons for the proposed revocation or suspension and an opportunity to introduce evidence and be heard.
360 The notice shall be sent by certified mail to the principal place of business of the licensee or other address
361 authorized under § 12.1-19.1 and shall state with particularity the grounds for the contemplated action.
362 Within 14 days of mailing the notice, the person or persons named therein may file with the clerk of the
363 Commission a written request for a hearing. If a hearing is requested, the Commission shall not suspend or
364 revoke the license except on the basis of findings made at such hearing. The hearing shall be conducted in
365 accordance with the Commission's Rules.

366 **§ 6.2-2264. Civil penalties.**

367 In addition to the authority conferred under § 6.2-2251, the Commission may impose a fine or penalty not
368 exceeding \$1,000 upon any person who it determines, in proceedings commenced in accordance with the
369 Commission's Rules of Practice and Procedure, has violated any provision of this chapter or regulations
370 promulgated by the Commission pursuant thereto, or violated any other law or regulation applicable to the
371 conduct of a licensee's business. For the purposes of this section, each separate violation shall be subject to
372 the fine or penalty herein prescribed.

373 **§ 6.2-2265. Authority of Attorney General; referral by Commission to Attorney General.**

374 *A. If the Commission determines that a person is in violation of, or has violated, any provision of this*
375 *chapter, the Commission may refer the information to the Attorney General and may request that the*
376 *Attorney General investigate such violations. With or without such referral, the Attorney General is hereby*
377 *authorized to seek to enjoin violations of this chapter. The Attorney General shall provide a cure period of 30*
378 *days after providing notice of any violation during which the violation may be voluntarily remedied without*
379 *further penalty. The circuit court having jurisdiction may enjoin such violations notwithstanding the*
380 *existence of an adequate remedy at law.*

381 *B. The Attorney General may also seek, and the circuit court may order or decree, damages and such*
382 *other relief allowed by law, including restitution to the extent available to borrowers under applicable law.*
383 *Persons entitled to any relief as authorized by this section shall be identified by order of the court within 180*
384 *days after the date of the order permanently enjoining the unlawful act or practice.*

385 *C. In any action brought by the Attorney General by virtue of the authority granted in this section, the*
386 *Attorney General shall be entitled to seek reasonable attorney fees and costs.*

387 **§ 6.2-2266. Violation of the Virginia Consumer Protection Act.**

388 *Any violation of the provisions of this chapter shall constitute a prohibited practice in accordance with*
389 *§ 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer*
390 *Protection Act (§ 59.1-196 et seq.), provided that the Attorney General shall provide a cure period of 30 days*
391 *after providing notice of any violation during which the violation may be voluntarily remedied without*
392 *further penalty.*

393 **§ 59.1-200. Prohibited practices.**

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

- 396 1. Misrepresenting goods or services as those of another;
- 397 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 398 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
399 with another;
- 400 4. Misrepresenting geographic origin in connection with goods or services;
- 401 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
402 benefits;
- 403 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

404 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
405 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
406 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
407 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
408 "not first class";

409 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
410 price or upon the terms advertised.

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

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

420 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
421 installed;

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

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

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

432 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;

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

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

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

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving

overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

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

37. Violating any provision of § 8.01-40.2;

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

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in § 59.1-526;
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et

524 seq.) of Title 54.1;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

543 obligation to pay for the goods or services;

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

545 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic

546 derivative" means a chemical compound produced by man through a chemical transformation to turn a

547 compound into a different compound by adding or subtracting molecules to or from the original compound.

548 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug

549 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit

550 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

551 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human

552 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply

553 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the

554 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;

71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

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

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

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

75. Violating any provision of § 59.1-466.8;

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

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

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

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

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

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

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

83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

84. Selling any food that is required by the FDA to have a nutrition label that does not meet the

616 requirements of 21 C.F.R. Part 101;

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

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

620 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
621 seq.); *and*

622 88. *Violating any provision of Chapter 22.2 (§ 6.2-2239 et seq.) of Title 6.2.*

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

627 **2. That the provisions of the first enactment of this act shall become effective on July 1, 2027.**

628 **3. That on or before March 1, 2027, the State Corporation Commission (the Commission) shall begin**
629 **accepting applications for licenses to be issued pursuant to Chapter 22.2 (§ 6.2-2239 et seq.) of Title 6.2**
630 **of the Code of Virginia, as created by this act, beginning July 1, 2027. Such applications filed with the**
631 **Commission may be investigated prior to July 1, 2027, in accordance with the provisions of § 6.2-2244**
632 **of the Code of Virginia, as created by this act.**