

HOUSE BILL NO. 308  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on General Laws  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Hope)

*A BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, 58.1-1021.07, 59.1-293.12, 59.1-293.18, and 59.1-293.20 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-250, and by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-359, relating to Virginia Alcoholic Beverage Control Authority; permitting of retail tobacco product retailers; purchase, possession, and sale of retail tobacco products; penalties.*

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

1. That §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, 58.1-1021.07, 59.1-293.12, 59.1-293.18, and 59.1-293.20 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-250, and by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-359, as follows:

## § 4.1-100. Definitions.

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

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

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

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall

32 be considered as belonging to that variety which has the higher percentage of alcohol, however obtained,  
33 according to the order in which they are set forth in this definition; except that beer may be manufactured to  
34 include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49  
35 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other  
36 nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent  
37 by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as  
38 no more than one and one-half percent of the volume of the finished product consists of alcohol derived from  
39 added flavors and other nonbeverage ingredients containing alcohol.

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

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

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

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

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

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

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

56 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20  
57 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the  
58 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24  
59 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless ~~Internet~~ *internet* services, (v) is equipped  
60 with charging stations at every seat for cellular phones or other portable devices, and (vi) during the  
61 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in

62 this subtitle or Board regulation.

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

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

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

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

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

92 and other agricultural products used to make such wine are grown in the Commonwealth.

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

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

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

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

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

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

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

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

119 "Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned  
120 agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural  
121 products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219,

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

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

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

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

152 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage

153 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers  
154 of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to  
155 persons.

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

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

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

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

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

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

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

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

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

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

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

178 "*Liquid nicotine container*" means the same as that term is defined in § 59.1-293.10.

179 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by  
180 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed  
181 with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit

182 adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or  
183 fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that  
184 low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the  
185 Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239        "*Residence*" means any building or part of a building or structure where a person resides, but does not  
240        include any part of a building that is not actually and exclusively used as a private residence, nor any part of a

241 hotel or club other than a private guest room thereof.

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

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

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

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

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

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

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

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

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

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

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

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

299        "*Sports facility*" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as  
300        defined in § 58.1-4030, or similar events, the types of which are approved by the Authority, are conducted.

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

302        "*Tobacco retailer*" means the same as that term is defined in § 59.1-293.10.

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

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

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

319        **§ 4.1-103. General powers of Board.**

320        The Board shall have the power to:

321        1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;  
322        2. Adopt, use, and alter at will a common seal;  
323        3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of  
324        products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose  
325        of providing for the payment of the expenses of the Authority;

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

329        5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,  
330        investment bankers, superintendents, managers, and such other employees and special agents as may be  
331        necessary and fix their compensation to be payable from funds made available to the Authority. Legal

332 services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500  
333 et seq.) of Title 2.2;

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

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

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

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

355 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title  
356 2.2;

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

360 12. Buy and sell any mixers;

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

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

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

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

369        17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
370 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
371 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,  
372 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to  
373 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time  
374 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms  
375 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or  
376 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such  
377 terms and conditions as may be determined by the Board; and occupy and improve any land or building  
378 required for the purposes of this subtitle;

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

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

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

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

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

406        23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and  
407 § 4.1-111;

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

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

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

412        ~~26.~~ 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

413        ~~27.~~ 28. Establish minimum food sale requirements for all retail licensees;

414        ~~28.~~ 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief  
415 Executive Officer as the Board deems appropriate;

416        ~~29.~~ 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement  
417 activities undertaken to enforce the provisions of this subtitle;

418        ~~30.~~ 31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with  
419 applications for such permits;

420        ~~31.~~ 32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of

421 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state  
422 license fee; and

423 ~~32.~~ 33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

424 **§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.**

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

428 B. All invoices, books, papers, or other memoranda and records concerning the sale of ~~cigarettes~~  
429 ~~maintained by wholesale cigarette dealers pursuant to § 58.1-1007 retail tobacco products by a tobacco~~  
430 *retailer* shall be subject to inspection during normal business hours by special agents of the Board. Any  
431 person who, upon request by a special agent *or the Attorney General or his authorized representative*,  
432 unreasonably fails or refuses to allow an inspection of the records authorized by this subsection ~~shall be is~~  
433 guilty of a Class 2 misdemeanor.

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

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

445 **§ 4.1-204. Records of licensees and permittees; inspection of records and places of business.**

446 A. ~~Manufacturers, bottlers or wholesalers.~~ — Every licensed manufacturer, bottler, or wholesaler shall  
447 keep complete, accurate, and separate records in accordance with Board regulations of all alcoholic beverages  
448 purchased, manufactured, bottled, sold, or shipped by him, and the applicable tax required by § 4.1-234 or  
449 4.1-236, if any.

450 B. ~~Retailers.~~ — Every retail licensee *and permittee* shall keep complete, accurate, and separate records, in  
451 accordance with Board regulations, of all purchases of alcoholic beverages *or retail tobacco products*, the

452 prices charged such licensee ~~therefor~~ or *permittee for such purchases*, and the names and addresses of the  
453 persons from whom purchased. Every retail licensee or *permittee* shall also preserve all invoices showing his  
454 purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily  
455 sales, showing quantities of alcoholic beverages or *retail tobacco products* sold and the total price charged by  
456 him therefor. Except as otherwise provided in subsection D, such account need not give the names or  
457 addresses of the purchasers ~~thereof~~, except as may be required by Board regulation for the sale of alcoholic  
458 beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their  
459 qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic  
460 beverages.

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

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

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

476 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1  
477 shall keep complete, accurate, and separate records for a period of at least two years in accordance with  
478 Board regulations of all deliveries of wine and beer to persons in the Commonwealth. Such records shall  
479 include (i) the types of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price  
480 charged for such wine and beer, (iv) the name and date of birth of the person to whom the wine and beer are  
481 delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit  
482 such records on a monthly basis for any month during which the licensee or permittee makes a delivery for

483 which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to  
484 subsection E of § 4.1-212.1.

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

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

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

506 **§ 4.1-229. Suspension or revocation of permits; grounds; notice and hearing; exception.**

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

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

512 *Article 4.*

513 *Permitting and Restrictions for Tobacco Retailers.*

**514      § 4.1-241. Retail tobacco permits; privileges; liabilities.**

515      *The Board may grant a retail tobacco permit to a tobacco retailer that shall authorize the permittee to sell*  
516 *retail tobacco products in a retail tobacco establishment. The privilege of any permittee to sell retail tobacco*  
517 *products shall extend to such permittee and to all agents or employees of such permittee for the purpose of*  
518 *selling retail tobacco products under such permit. Such permittee may be held liable for any violation of this*  
519 *article or any Board regulation committed by his agents or employees in connection with their employment.*  
520 *For purposes of this article, "retail tobacco product" includes any liquid nicotine or nicotine vapor product*  
521 *as those terms are defined in § 58.1-1021.01.*

**522      § 4.1-242. Separate retail tobacco permit for each place of business; transfer or amendment; posting;**  
**523      expiration; carriers.**

524      *A. Each retail tobacco permit issued pursuant to § 4.1-241 shall designate the place where such retail*  
525 *sales will be located. A separate retail tobacco permit shall be required for each separate place of business.*  
526 *Each retail tobacco permit shall be posted in a location conspicuous to the public at the place where such*  
527 *retail sales will be located.*

528      *B. No retail tobacco permit shall be transferable from one tobacco retailer to another, or from one place*  
529 *to another.*

530      *C. The privileges conferred by any retail tobacco permit issued pursuant to § 4.1-241 shall continue until*  
531 *the last day of the twelfth month next ensuing, except the retail tobacco permit may be sooner terminated for*  
532 *any cause for which the Board would be entitled to refuse to grant a retail tobacco permit, by operation of*  
533 *law, voluntary surrender, or order of the Board.*

**534      § 4.1-243. Applications for retail tobacco permits; fees.**

535      *A. Every person intending to apply for a retail tobacco permit issued pursuant to § 4.1-241 shall file with*  
536 *the Board an application to sell retail tobacco products on a form prescribed by the Board and a statement in*  
537 *writing by the applicant swearing and affirming that all of the information contained therein is true.*

538      *B. The provisions of subsection A shall not apply to the continuance of retail tobacco permits granted*  
539 *under this article; however, such permittees shall file and maintain with the Board a current, accurate record*  
540 *of the information required by the Board pursuant to subsection A and notify the Board of any changes to*  
541 *such information in accordance with Board regulations.*

542      *C. Nothing in this article shall exempt any permittee from any other tax or fee imposed by this article,*  
543 *state merchants' license, state restaurant license, or any other state tax. Every permittee, in addition to the*  
544 *taxes imposed by this article, shall be liable to state merchants' license taxation, state restaurant license*

545 taxation, and other state or local taxation applicable to retail tobacco products.

546 **§ 4.1-244. Conditions under which Board may refuse to grant retail tobacco permits.**

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

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

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

554 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the  
555 laws of the Commonwealth;

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

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

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

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

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

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

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

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

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

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

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

581        *2. The place to be occupied by the applicant does not conform to the requirements of the governing body*  
582        *of the locality in which such place is located with respect to sanitation, health, construction, or equipment, or*  
583        *to any similar requirements established by the laws of the Commonwealth or by Board regulation.*

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

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

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

589        *6. Investigators with the Office of the Attorney General seized cigarette inventory, as authorized by*  
590        *§ 2.2-509.1, from the applicant during the prior year.*

591        **§ 4.1-245. Notice and hearings for refusal to grant retail tobacco permits; Administrative Process Act;**  
592        **exceptions.**

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

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

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

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

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

605        *4. Applicant received a temporary retail tobacco permit pursuant to § 4.1-250 and reapplies for a retail*  
606        *tobacco permit at the same location within 12 months of the date of the issuance of the temporary retail*

607 *tobacco permit.*

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

612     **§ 4.1-246. Grounds for which Board may suspend or revoke retail tobacco permits.**

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

614         *1. The permittee, or if the permittee is a partnership, any general partner thereof, or if the permittee is an  
615         association, any member thereof, or any limited partner of 10 percent or more with voting rights, or if the  
616         permittee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
617         stock, or if the permittee is a limited liability company, any member-manager or any member owning 10  
618         percent or more of the membership interest of the limited liability company:*

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

620             *b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-248,  
621         has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth applicable to  
622         the manufacture, transportation, possession, use, or sale of retail tobacco products; (ii) violated any  
623         provision of this article; (iii) violated or failed or refused to comply with any regulation, rule, or order of the  
624         Board; (iv) failed or refused to comply with any of the conditions or restrictions of the retail tobacco permit  
625         issued pursuant to § 4.1-241; or (v) violated, failed, or refused to comply with Article 4 (§ 4.1-355 et seq.) of  
626         Chapter 3;*

627             *c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under  
628         the laws of the Commonwealth;*

629             *d. Is not the legitimate owner of the business conducted under the retail tobacco permit issued pursuant to  
630         § 4.1-241, or other persons have ownership interests in the business that have not been disclosed;*

631             *e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business  
632         conducted under the retail tobacco permit issued pursuant to § 4.1-241;*

633             *f. Has been intoxicated or under the influence of some self-administered drug while upon the permitted  
634         premises;*

635             *g. Subsequent to the granting of his original retail tobacco permit, has demonstrated by his police record  
636         a lack of respect for law and order;*

637             *h. Is physically unable to carry on the business conducted under such retail tobacco permit or has been*

638 adjudicated incapacitated;

639       i. Has possessed any illegal gambling device, as defined in § 18.2-325, upon the permitted premises;  
640       j. Has upon the permitted premises (i) illegally possessed, distributed, sold, or used or has knowingly  
641       allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana,  
642       controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as  
643       those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title  
644       18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or  
645       (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or  
646       the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the  
647       operation of the permitted business that facilitates the commission of any of the offenses set forth herein;  
648       k. Has failed to take reasonable measures to prevent (i) the permitted premises, (ii) any premises  
649       immediately adjacent to the permitted premises that are owned or leased by the permittee, or (iii) any portion  
650       of public property immediately adjacent to the permitted premises from becoming a place where patrons of  
651       the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1  
652       (§ 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.),  
653       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  
654       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  
655       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  
656       violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to  
657       public safety; or

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

662       2. The place occupied by the permittee:

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

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

667       c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,  
668       prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are

669 *regularly used or distributed. The Board may consider the general reputation in the community of such*  
670 *establishment in addition to any other competent evidence in making such determination.*

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

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

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

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

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

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

686 **§ 4.1-247. Grounds for which Board shall suspend or revoke retail tobacco permits.**

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

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

691 *2. A permittee has defrauded or attempted to defraud the Board or any federal, state, or local government*  
692 *or governmental agency or authority by making or filing any report, document, or tax return required by*  
693 *statute or regulation that is fraudulent or contains a willfully or knowingly false representation of a material*  
694 *fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or*  
695 *governmental agency or authority by making or maintaining business records required by statute or*  
696 *regulation that are false or fraudulent.*

697 **§ 4.1-248. Suspension or revocation of retail tobacco permits; notice and hearings; imposition of**  
698 **penalties.**

699 *A. 1. Except for temporary retail tobacco permits issued pursuant to § 4.1-250, before the Board may*

700 impose a civil penalty or suspend or revoke any retail tobacco permit, reasonable notice of such proposed or  
701 contemplated action shall be given to the permittee in accordance with the provisions of § 2.2-4020.

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

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

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

723 B. 1. In suspending any retail tobacco permit, the Board may impose, as a condition precedent to the  
724 removal of such suspension or any portion thereof, a requirement that the permittee pay the cost incurred by  
725 the Board in investigating the permittee and in holding the proceeding resulting in such suspension, or it may  
726 impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil  
727 penalty exceeding \$1,000 for the first violation occurring within the five years immediately preceding the  
728 date of the violation, \$5,000 for the second violation occurring within the five years immediately preceding  
729 the date of the second violation, or \$10,000 for the third violation occurring within the five years immediately  
730 preceding the date of the third violation.

731        2. However, if the violation involved selling retail tobacco products to a person prohibited from  
732 purchasing such products, the Board may impose a civil penalty not to exceed (i) \$1,000 for the first violation  
733 occurring within the five years immediately preceding the date of the violation; (ii) \$5,000 for the second  
734 violation occurring within the five years immediately preceding the date of the second violation and such  
735 retail dealer found to be in violation of this subdivision shall be required to verify that any consumer who  
736 appears to be under 30 years of age is of legal age by verifying such consumer's government-issued  
737 photographic identification using fraud detection software, technology, or a scanner that confirms the  
738 authenticity of such identification; or (iii) \$10,000 for the third violation occurring within the five years  
739 immediately preceding the date of the third violation, in lieu of such suspension or any portion thereof, or  
740 both. The Board may also impose a requirement that the permittee pay for the cost incurred by the Board, not  
741 to exceed \$25,000, in investigating the permittee and in holding the proceeding resulting in the violation in  
742 addition to any suspension or civil penalty incurred.

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

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

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

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

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

759        4. Establish a schedule of offenses for which any penalty may be waived upon a showing that the  
760 permittee has had no prior violations within five years immediately preceding the date of the violation. No  
761 waiver shall be granted by the Board, however, for a permittee's willful and knowing violation of this article

762 or Board regulations.

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

765       **§ 4.1-249. Suspension or revocation; disposition of retail tobacco products; termination.**

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

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

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

770       3. Upon retail tobacco permits issued pursuant to § 4.1-241 and conditions specified by the Board, sold to  
771 persons outside the Commonwealth for resale outside the Commonwealth upon retail tobacco permits issued  
772 pursuant to § 4.1-241.

773       B. Upon retail tobacco permits issued pursuant to § 4.1-241 and upon payment of any excise tax due  
774 thereon, retail tobacco products owned and in possession of, or either, or for sale by, any permittee at the  
775 time the retail tobacco permit of such permittee is suspended or revoked may be sold to any person  
776 authorized to purchase the same for resale.

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

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

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

787       **§ 4.1-250. Continuation of permittee operations in certain instances; temporary retail tobacco permits.**

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

789       1. Any person who (i) purchases at a foreclosure, secured creditor's, or judicial auction sale the premises  
790 or property of a permittee or (ii) has become lawfully entitled to the possession of the permitted premises to  
791 continue to operate the retail tobacco establishment to the same extent as a permittee for a period not to  
792 exceed 60 days or for such longer period as determined by the Board. Such retail tobacco permit shall be

793 temporary and shall confer the privileges of any retail tobacco permits held by the previous owner to the  
794 extent determined by the Board. Such temporary retail tobacco permit may be issued in advance, conditioned  
795 on the above requirements.

796 2. Any person who, through contract, lease, concession, license, management or similar agreement  
797 (collectively, the contract), becomes lawfully entitled to the use and control of the premises of a permittee to  
798 continue to operate the retail tobacco establishment to the same extent as a permittee, provided such person  
799 has made application to the Board for a retail tobacco permit at the same premises. The temporary retail  
800 tobacco permit shall (i) confer the privileges of any retail tobacco permits held by the previous owner to the  
801 extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be  
802 necessary as determined by the Board pending the completion of the processing of the temporary permittee's  
803 retail tobacco permit application. No temporary retail tobacco permit shall be issued without the written  
804 consent of the previous permittee. No temporary retail tobacco permit shall be issued under the provisions of  
805 this subdivision if the previous permittee owes any state or local taxes, or has any pending charges for  
806 violation of this article or any Board regulation, unless the temporary permittee agrees to assume the liability  
807 of the previous permittee for the taxes or any penalty for the pending charges. An application for a temporary  
808 retail tobacco permit may be filed prior to the effective date of the contract, in which case the temporary  
809 retail tobacco permit, when issued, shall become effective on the effective date of the contract. Upon the  
810 effective date of the temporary retail tobacco permit, (a) the temporary permittee shall be responsible for  
811 compliance with the provisions of this article and any Board regulation and (b) the previous permittee shall  
812 not be held liable for any violation of this article or any Board regulation committed by, or any errors or  
813 omissions of, the temporary permittee.

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

818 C. The decision to refuse to grant a temporary retail tobacco permit shall not be subject to a hearing. A  
819 temporary retail tobacco permit may be revoked summarily by the Board for any cause set forth in § 4.1-246  
820 without complying with subsection A of § 4.1-248. Revocation of a temporary retail tobacco permit shall be  
821 effective upon service of the order of revocation upon the temporary permittee or upon the expiration of three  
822 business days after the order of the revocation has been mailed to the temporary permittee at either his  
823 residence or the address given for the business in the application. No further notice shall be required.

#### *Article 4.*

### *Retail Tobacco Products.*

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

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

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

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

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

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

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

**843      § 4.1-357. Persons to whom retail tobacco products may not be sold; proof of legal age; civil penalty.**

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

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

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

855 or a scanner that confirms the authenticity of such identification.

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

862 C. A violation of subsection A or B by an individual is punishable by a civil penalty in the amount of  
863 \$1,000 for a first violation, a civil penalty in the amount of \$5,000 for a second violation within a three-year  
864 period, or a civil penalty in the amount of \$10,000 for a third or subsequent violation within a three-year  
865 period. Such civil penalty shall not preclude the Board from taking administrative action against a permittee  
866 for the conduct of his agent or employee who violates subsection A or B. If applicable, upon a third or  
867 subsequent violation within a three-year period, the Board may suspend or revoke any retail tobacco permit  
868 issued pursuant to this subtitle.

869 **§ 4.1-358. Prohibiting possession of retail tobacco products by a person younger than 21 years of age; seizure.**

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

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

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

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

887       *§ 4.1-359. Purchasing retail tobacco products for person to whom they may not be sold; penalty;*  
888       *forfeiture.*

889       *A. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail*  
890       *tobacco products to another person, when he knows or has reason to know that such person is younger than*  
891       *21 years of age, except (i) where possession of such products by a person younger than 21 years of age is due*  
892       *to such person's making a delivery of such products in pursuance of his employment or (ii) as part of a*  
893       *scientific study being conducted by an organization for the purpose of medical research to further efforts in*  
894       *cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such*  
895       *medical research has been approved by an institutional review board pursuant to applicable federal*  
896       *regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1.*  
897       *This subsection shall not apply to the possession of any retail tobacco product by a law-enforcement officer*  
898       *or his agent when the same is necessary in the performance of his duties.*

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

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

906       **§ 15.2-912.4. Regulation of retail tobacco, nicotine, and hemp product retail sale locations.**

907       *Any locality may, by ordinance, regulate the a retail sale locations of retail tobacco products*  
908       *establishment, as such term is defined in § 48.2-371.2 4.1-100, or retail sale location of hemp products*  
909       *intended for smoking, as such term is defined in § 3.2-4112, for any such retail sale location and may prohibit*  
910       *a retail sale such establishment or location on property within 1,000 linear feet of a child day center as*  
911       *defined in § 22.1-289.02 or a public, private, or parochial school. An ordinance adopted pursuant to this*  
912       *section shall not affect (i) a licensee holding a valid license under § 4.1-206.3 or (ii) any retail sale location of*  
913       *retail tobacco products establishment or the retail sale location of hemp products intended for smoking*  
914       *operating before July 1, 2024.*

915       **§ 18.2-246.8. Age verification requirements.**

916       *A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless*

917 prior to the first delivery sale to a consumer such person:

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

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

930 3. Provides to the prospective consumer, via email or other means, a notice that meets the requirements of  
931 § 18.2-246.9; and

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

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

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

939 **§ 18.2-371.2. Prohibiting sale or distribution, etc. of hemp products intended for smoking by  
940 persons under 21 years of age; civil penalties.**

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

943 B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person  
944 younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years  
945 of age, any ~~retail tobacco product~~ or hemp product intended for smoking.

946 No person shall sell retail ~~tobacco products~~ or hemp products intended for smoking from a vending

947 machine.

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

951 Before a ~~retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as~~  
952 ~~defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the~~  
953 ~~retail tobacco products shall verify that the consumer is of legal age by examining from any person who~~  
954 ~~appears to be under 30 years of age a government-issued photographic identification that establishes that the~~  
955 ~~person is of legal age or, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of~~  
956 ~~§ 59.1-293.12, verifying the identification presented using identification fraud detection software,~~  
957 ~~technology, or a scanner that confirms the authenticity of such identification.~~

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

965 C. D. A violation of subsection A B or B C by an individual or by a separate retail establishment is  
966 punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of  
967 \$2,500 for a second or subsequent violation within a three-year period. ~~If applicable, upon a second or~~  
968 ~~subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any~~  
969 ~~approved license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04:1.~~

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

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

976 D. E. 1. Cigarettes and ~~hemp~~ *Hemp* products intended for smoking shall be sold only in sealed packages  
977 provided by the manufacturer, with the required health warning. The proprietor of every retail establishment

978 that offers for sale any ~~retail tobaccoe product or~~ hemp product intended for smoking shall post in a  
979 conspicuous manner and place a sign or signs indicating that the sale of ~~retail tobaccoe products or~~ hemp  
980 products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the  
981 ~~county, city, or town~~ *locality* in which an alleged violation of this subsection occurred may enforce this  
982 subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into  
983 the local treasury. No filing fee or other fee or cost shall be charged to the ~~county, city, or town~~ *locality*  
984 which instituted the action.

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

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

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

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

998 **G. As used in this section:**

999 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized  
1000 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-  
1001 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or  
1002 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of  
1003 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any  
1004 (i) battery or battery charger when sold separately or (ii) device used for heated tobaccoe products. "Electronic  
1005 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or  
1006 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination  
1007 products are authorized for sale by the U.S. Food and Drug Administration.

1008 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in

1009 §3.2-4112.

1010 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that  
1011 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,  
1012 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated  
1013 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device  
1014 and any substances that may be aerosolized or vaporized by such device, whether or not the substance  
1015 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),  
1016 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling  
1017 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that  
1018 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms  
1019 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such  
1020 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

1021 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for  
1022 smoking in a manner similar to a cigarette or cigar.

1023 **§ 18.2-371.2:1. Prohibiting possession of hemp products intended for smoking by a person younger  
1024 than 21 years of age; seizure.**

1025 A. No person younger than 21 years of age shall possess any ~~retail tobacco product or~~ hemp product  
1026 intended for smoking, as ~~those terms are~~ *that term is* defined in § 18.2-371.2 3.2-4112. The provisions of this  
1027 section shall not be applicable to the possession of ~~retail tobacco products or~~ hemp products intended for  
1028 smoking by a person younger than 21 years of age (i) making a delivery of ~~retail tobacco products or~~ hemp  
1029 products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being  
1030 conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco  
1031 use prevention and cessation and tobacco product regulation, provided that such medical research has been  
1032 approved by an institutional review board pursuant to applicable federal regulations or by a research review  
1033 committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the  
1034 possession of any ~~retail tobacco product or~~ hemp product intended for smoking by a law-enforcement officer  
1035 or his agent when the same is necessary in the performance of his duties.

1036 B. Any ~~retail tobacco product or~~ hemp product intended for smoking, as ~~those terms are~~ *that term is* defined in § 18.2-371.2 3.2-4112, possessed in violation of this section shall be deemed contraband and may  
1037 be seized by a law-enforcement officer. Any such product, the lawful possession of which is not established,  
1038 seized by such officer shall be forfeited and disposed of according to the process described in subdivision A 2

1040 of § 19.2-386.23.

1041 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this  
1042 section.

1043 D. The provisions of this section shall not preclude prosecution under any other statute.

1044 **§ 18.2-391. Unlawful acts; penalties.**

1045 A. It ~~shall be~~ *is* unlawful for any person to sell, rent, or loan to a juvenile, knowing or having reason to  
1046 know that such person is a juvenile, or to knowingly display for commercial purpose in a manner whereby  
1047 juveniles may examine and peruse:

1048 1. Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or  
1049 computer game, electronic file or message containing an image, or similar visual representation or image of a  
1050 person or portion of the human body ~~which~~ *that* depicts sexually explicit nudity, sexual conduct, or  
1051 sadomasochistic abuse and ~~which~~ *that* is harmful to juveniles, or

1052 2. Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message  
1053 containing words, or sound recording ~~which~~ *that* contains any matter enumerated in subdivision 1 of this  
1054 subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual  
1055 conduct, or sadomasochistic abuse and ~~which~~ *that*, taken as a whole, is harmful to juveniles.

1056 However, if a person uses services of an ~~Internet~~ *internet* service provider or an electronic mail service  
1057 provider in committing acts prohibited under this subsection, such ~~Internet~~ *internet* service provider or  
1058 electronic mail service provider shall not be held responsible for violating this subsection.

1059 B. It ~~shall be~~ *is* unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or  
1060 knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show, or other  
1061 presentation ~~which~~ *that*, in whole or in part, depicts sexually explicit nudity, sexual conduct, or  
1062 sadomasochistic abuse and ~~which~~ *that* is harmful to juveniles or to exhibit any such motion picture at any  
1063 such premises ~~which~~ *that* are not designed to prevent viewing from any public way of such motion picture by  
1064 juveniles not admitted to any such premises.

1065 C. It ~~shall be~~ *is* unlawful for any juvenile falsely to represent to any person mentioned in subsection A or  
1066 subsection B ~~hereof~~, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure  
1067 any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion  
1068 picture, show, or other presentation, as set forth in subsection B.

1069 D. It ~~shall be~~ *is* unlawful for any person knowingly to make a false representation to any person  
1070 mentioned in subsection A or subsection B ~~hereof~~ or to his agent, that he is the parent or guardian of any

1071 juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection  
1072 A, or with the intent to procure such juvenile's admission to any motion picture, show, or other presentation,  
1073 as set forth in subsection B.

1074 E. No person shall sell, rent, or loan any item described in subdivision A 1 or A 2 to any individual who  
1075 does not demonstrate his age in accordance with the provisions of subsection B C of § 18.2-371.2.

1076 F. A violation of subsection A, B, C, or D is a Class 1 misdemeanor. A person or separate retail  
1077 establishment who violates subsection E shall be liable for a civil penalty not to exceed \$100 for a first  
1078 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for  
1079 a third or subsequent violation.

1080 **§ 58.1-1021.04:1. Distributor's or remote retail seller's license; penalties.**

1081 A. 1. No person shall engage in the business of selling or dealing in tobacco products as a distributor in  
1082 the Commonwealth without first having received a separate license from the Department for each location or  
1083 place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed  
1084 by the Department. Every application for such license shall be made on a form prescribed by the Department  
1085 and the following information shall be provided on the application:

1086 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name  
1087 and address of each of its members shall be provided. If the applicant is a corporation, the name and address  
1088 of each of its principal officers shall be provided;

1089 b. The address of the applicant's principal place of business;

1090 c. The place or places where the business to be licensed is to be conducted; and

1091 d. Such other information as the Department may require for the purpose of the administration of this  
1092 article.

1093 2. A person outside the Commonwealth who ships or transports tobacco products to retailers in the  
1094 Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted  
1095 such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license  
1096 is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless  
1097 such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601 et seq.), 10 (§ 13.1-801 et seq.),  
1098 12 (§ 13.1-1000 et seq.), or 14 (§ 13.1-1200 et seq.) of Title 13.1 or Chapter 2.1 (§ 50-73.1 et seq.) or 2.2  
1099 (§ 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of the State Corporation  
1100 Commission as the person's agent for the purpose of service of process relating to any matter or issue

1101 involving the person and arising under the provisions of this article.

1102 The Department shall conduct a background investigation, to include a Virginia criminal history records

1103 search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged

1104 in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of

1105 Investigation if the Department deems a national criminal records search necessary, on applicants for

1106 licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may

1107 suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation,

1108 limited liability company, or business trust if it determines that the principals, managers, and other persons

1109 engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of

1110 any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny,

1111 embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted

1112 of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or

1113 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application

1114 for a distributor's license to the Department, is guilty of a Class 1 misdemeanor. The Department may

1115 establish an application or renewal fee not to exceed \$750 to be retained by the Department to be applied to

1116 the administrative and other costs of processing distributor's license applications, conducting background

1117 investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of

1118 such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into

1119 the state treasury.

1120 3. No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco

1121 to consumers in the Commonwealth without (i) completing an application for and being granted a license as a

1122 remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for

1123 a dealer's certificate under § 58.1-613; (iii) if economic nexus thresholds are met, collecting and remitting the

1124 excise tax pursuant to subsection A of § 58.1-1021.02; (iv) providing for age verification through an

1125 independent, third-party age verification service that compares information available from a commercially

1126 available database, or aggregate of databases, that is regularly used by government agencies and businesses

1127 for the purpose of age and identity verification to the personal information entered by the individual during

1128 the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are

1129 met and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the

1130 remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail

1131 sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to  
1132 a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

1133 B. Upon receipt of an application in proper form and payment of the required license fee, the Department  
1134 shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the  
1135 licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a  
1136 copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be  
1137 transferable to any other person. Distributor's licenses issued pursuant to this section shall be valid for a  
1138 period of three years from the date of issue unless revoked by the Department in the manner provided herein.  
1139 The Department may at any time revoke the license issued to any distributor who is found guilty of violating  
1140 or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and  
1141 promulgated under authority of this chapter. The Department shall suspend or revoke the license issued to  
1142 any distributor who is found guilty of a second or subsequent violation of subsection A or B or C of  
1143 § 18.2-371.2.

1144 C. ~~t. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor~~  
1145 ~~products or shipping or transporting liquid nicotine or nicotine vapor products to retailers in the~~  
1146 ~~Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the~~  
1147 ~~Commonwealth without first having received a separate license from the Department for each location or~~  
1148 ~~place of business, and any person who violates such prohibition shall be subject to a penalty of \$400 in~~  
1149 ~~addition to any other applicable taxes or fees. Each application for a manufacturer's, distributor's, or retail~~  
1150 ~~dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by~~  
1151 ~~the Department. Any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for~~  
1152 ~~Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued~~  
1153 ~~by the Department shall not be required to obtain a license under this subsection. Every application for such~~  
1154 ~~liquid nicotine and nicotine vapor products license shall be made on a form prescribed by the Department and~~  
1155 ~~the following information shall be provided on the application:~~

1156 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name  
1157 and address of each of its members shall be provided. If the applicant is a corporation, the name and address  
1158 of each of its principal officers shall be provided;  
1159 b. The address of the applicant's principal place of business;  
1160 c. The place or places where the business to be licensed is to be conducted; and  
1161 d. Such other information as the Department may require for the purpose of the administration of this

1162 article.

1163 2. The Department shall conduct a background investigation, to include a Virginia criminal history  
1164 records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine  
1165 vapor products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the  
1166 Department deems a national criminal records search necessary, on applicants for licensure as a liquid  
1167 nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may  
1168 refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person,  
1169 partnership, corporation, limited liability company, or business trust if it determines that the principals and  
1170 managers at the licensable location of the applicant have been (i) found guilty of any fraud or  
1171 misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,  
1172 fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a  
1173 felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a  
1174 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in  
1175 any application for a license to the Department is guilty of a Class 1 misdemeanor. The Department may  
1176 establish an application or renewal fee to be retained by the Department to be applied to the administrative  
1177 and other costs of processing license applications, conducting background investigations, and issuing  
1178 licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-  
1179 numbered years shall be reported to the State Treasurer and deposited into the state treasury.

1180 3. Upon receipt of an application in proper form and payment of the required license fee, the Department  
1181 shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor  
1182 products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail  
1183 dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently  
1184 displayed on the premises covered by the license. No license shall be transferable to any other person,  
1185 partnership, corporation, limited liability company, or business trust; however, the Department may grant a  
1186 temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail  
1187 dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses,  
1188 other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of  
1189 issue unless revoked by the Department in the manner provided in this section. The Department may at any  
1190 time suspend or revoke the approved license, permit, or registration issued in accordance with this subsection  
1191 to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or  
1192 any of the rules of the Department adopted and promulgated under authority of this chapter. Any person

1193 authorized to sell liquid nicotine or nicotine vapor products pursuant to this subsection shall, as a condition of  
1194 renewing or extending an approved license, permit, or registration, be required to submit to the Department  
1195 an accurate record of any taxes paid on liquid nicotine pursuant to § 58.1-1021.02.

1196 4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not  
1197 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid  
1198 nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found  
1199 guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

1200 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;

1201 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension  
1202 of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i)  
1203 of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30  
1204 years of age is of legal age by verifying such consumer's government-issued photographic identification using  
1205 fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and  
1206 e. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the liquid  
1207 nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor  
1208 products license for a period of three years from the date of the most recent violation.

1209 5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine  
1210 vapor products without verifying that the consumer is of legal age by examining from any person who  
1211 appears to be under 30 years of age a government-issued photographic identification that establishes that the  
1212 person is of legal age or providing for age verification through an independent age verification service that  
1213 compares information available from a commercially available database, or aggregate of databases, that is  
1214 regularly used by government agencies and businesses for the purpose of age and identity verification to the  
1215 personal information entered by the individual during the ordering process that establishes that the individual  
1216 is of age.

1217 6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor  
1218 products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales  
1219 receipt involved that shall include itemized lists of the types of products included in such transaction, the tax  
1220 due on each product pursuant to subsection B of § 58.1-1021.02, and the total amount of taxes paid. Such  
1221 records shall be produced and provided to the Department as necessary for auditing, compliance, and  
1222 enforcement purposes.

1223 D. C. The Department shall compile and maintain a current list of licensed distributors and remote retail

1224 sellers of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and  
1225 nicotine vapor products. The list shall be updated on a monthly basis and published on the Department's  
1226 website, available to any interested party.

1227 **§ 58.1-1021.07. Retail sales of liquid nicotine and nicotine vapor products; identification and use by  
1228 minors.**

1229 Before a retail dealer may sell liquid nicotine or nicotine vapor products to any consumer, the person  
1230 selling, offering for sale, giving, or furnishing the liquid nicotine or nicotine vapor product shall verify that  
1231 the consumer is of legal age by:

1232 1. For any retail sale by a retail dealer, examining from any person who appears to be under 30 years of  
1233 age a government-issued photographic identification that establishes the person is of legal age or, if required  
1234 pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of § 59.1-293.12, verifying the  
1235 identification presented using identification fraud detection software, technology, or scanner that confirms the  
1236 authenticity of such identification; or

1237 2. For any delivery sale by a retail dealer to a consumer in the Commonwealth, performing an age  
1238 verification through an independent, age verification software, service, or technology that compares  
1239 information available from public records to the personal information entered by the purchaser during the  
1240 ordering process that establishes that the purchaser is of legal age or older.

1241 **§ 59.1-293.12. Restrictions on the sale of liquid nicotine or nicotine vapor products to minors;  
1242 penalties.**

1243 A. A retail dealer shall comply with the provisions of this section, §§ 18.2-246.8, 18.2-246.10, and  
1244 18.2-371.2, and 59.1-293.13, and any other state or local law related to the sale of retail tobacco products  
1245 liquid nicotine or nicotine vapor products. If the Department determines that a retail dealer has violated any  
1246 such provision of law, the Department may suspend or revoke such retail dealer's Retail Sales and Use Tax  
1247 Exemption Certificate for Stamped Cigarettes Purchased for Resale or Other Tobacco Products (OTP)  
1248 Distributor's License.

1249 B. 1. For each retail dealer, the Department shall conduct an unannounced investigation at least once  
1250 every 24 months to verify that the retail dealer is not selling retail tobacco products liquid nicotine or nicotine  
1251 vapor products to persons under 21 years of age. If the Department determines that the retail dealer has  
1252 violated any provision of this section, § 18.2-246.8, 18.2-246.10, or 18.2-371.2, or 59.1-293.13, or any other  
1253 state or local law related to the sale of retail tobacco products liquid nicotine or nicotine vapor product, it  
1254 shall conduct an unannounced investigation of the retail dealer within six months of such violation.

1255 2. If the Department determines that a retail dealer, or a retail dealer's agent or employee, sold a ~~retail~~  
1256 ~~tobacco~~ *product liquid nicotine or nicotine vapor product* to a person ~~under~~ *younger than* 21 years of age or  
1257 violated subsection A or B of § 18.2-371.2, the Department shall impose and the retail dealer shall be subject  
1258 to:

1259 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;  
1260 b. For a second violation in a 36-month period, a penalty of no less than \$5,000. Any retail dealer found to  
1261 be in violation of this subdivision 2 b shall be required to verify that any consumer who appears to be under  
1262 30 years of age is of legal age by verifying such consumer's government-issued photographic identification  
1263 using fraud detection software, technology, or a scanner that confirms the authenticity of such identification;  
1264 and

1265 c. For a third violation in a 36-month period, a penalty of no less than \$10,000 and a 30-day suspension of  
1266 the retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for  
1267 Resale or OTP Distributor's License.

1268 d. For a fourth violation in a 36-month period, revocation of the retail dealer's Retail Sales and Use Tax  
1269 Exemption Certificate for Stamped Cigarettes Purchased for Resale or OTP Distributor's License, and  
1270 ineligibility to possess any such certificate or license for a period of three years from the date of the most  
1271 recent violation.

1272 3. Any civil penalties assessed pursuant to this section shall be paid into the Tobacco Retail Enforcement  
1273 Fund, established pursuant to § 59.1-293.14.

1274 C. The Department shall collaborate with the Virginia Alcoholic Beverage Control Authority and local  
1275 law enforcement to the extent possible to enforce the provisions of this section and § 4.1-103.01.

1276 **§ 59.1-293.18. Agent for service of process.**

1277 A. Any nonresident manufacturer of liquid nicotine or nicotine vapor products that has not registered to  
1278 do business in the Commonwealth as a foreign corporation or business entity shall, as a condition precedent  
1279 to being included in the directory established by the Attorney General pursuant to § 59.1-293.12 ~~59.1-293.12~~ 59.1-293.15,  
1280 appoint and continually engage without interruption the services of an agent in the Commonwealth to act as  
1281 agent for the service of process in any action or proceeding against such nonresident manufacturer concerning  
1282 or arising out of the enforcement of this chapter, and such nonresident manufacturer may be served in any  
1283 manner authorized by law. Such service shall constitute legal and valid service of process on the nonresident  
1284 manufacturer. The manufacturer shall provide the name, address, telephone number, and proof of the

1285 appointment and availability of such agent to the Attorney General.

1286       B. The manufacturer shall provide notice to the Attorney General 30 calendar days prior to termination of  
1287 the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the  
1288 appointment of a new agent no less than five calendar days prior to the termination of an existing agent  
1289 appointment. In the event an agent terminates an agency appointment, the manufacturer shall notify the  
1290 Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the  
1291 Attorney General of the appointment of a new agent.

1292       C. Any manufacturer whose liquid nicotine or nicotine vapor products are sold in the Commonwealth who  
1293 has not appointed and engaged the services of an agent as required by this section shall be deemed to have  
1294 appointed the Secretary of the Commonwealth as its agent for service of process. The appointment of the  
1295 Secretary of the Commonwealth as agent shall not satisfy the condition precedent required in subsection A to  
1296 be included in the directory.

1297       **§ 59.1-293.20. Sale or distribution prohibited.**

1298       A. Beginning December 31, 2025, no person shall sell, distribute or import for resale, or offer for sale a  
1299 liquid nicotine or nicotine vapor product for retail sale in the Commonwealth unless such liquid nicotine or  
1300 nicotine vapor product is included in the directory established by the Attorney General pursuant to §  
1301 ~~59.1-293.12~~ 59.1-293.15.

1302       B. Beginning December 31, 2025, no liquid nicotine or nicotine vapor product manufacturer shall sell for  
1303 retail sale, either directly or through a wholesaler, distributor, retailer, or similar intermediary or  
1304 intermediaries, a liquid nicotine or nicotine vapor product in the Commonwealth unless such liquid nicotine  
1305 or nicotine vapor product is included in the directory established by the Attorney General pursuant to §  
1306 ~~59.1-293.12~~ 59.1-293.15.

1307       C. Any person that violates the provisions of subsection A is subject to a fine of \$1,000 per day for each  
1308 product offered for sale in violation until the offending product is removed from the market or until the  
1309 offending product is properly listed on the directory.

1310       D. A liquid nicotine or nicotine vapor product manufacturer that violates the provisions of subsection B is  
1311 subject to a fine of \$1,000 per day for each product offered for sale in violation until the offending product is  
1312 removed from the market or until the offending product is properly listed on the directory.

1313       E. Each retailer shall have 60 days from the date that the Attorney General first makes the directory  
1314 available for inspection on its public website to sell any products that were in its inventory and not included

1315 in the directory or to remove from inventory and return such products to the manufacturer for disposal.

1316 F. Each distributor or wholesaler shall have 60 days from the date that the Attorney General first makes  
1317 the directory available for inspection on its public website to remove any products intended for sale in the  
1318 Commonwealth from its inventory and return such products to the manufacturer for disposal.

1319 G. In an action brought under this section, the attorney for the Commonwealth or the attorney for the  
1320 county, city, or town may recover reasonable costs of investigation, the costs of the action, and attorney fees.

1321 H. Any civil penalties assessed under this section in an action brought in the name of a locality shall be  
1322 paid into the general fund of the locality.

1323 I. All fees collected by the Attorney General pursuant to this chapter shall be used for the administration  
1324 and enforcement of this chapter.

1325 **2. That the provisions of this act shall become effective on January 1, 2027.**

1326 **3. That for each permittee licensed pursuant to § 4.1-241 of the Code of Virginia, as created by this act,**  
1327 **the Office of the Attorney General shall conduct an unannounced underage buyer operation at least**  
1328 **once every 24 months to verify that the permittee is not selling retail tobacco products to persons**  
1329 **younger than 21 years of age. If the Office of the Attorney General determines that the permittee has**  
1330 **violated the provisions of § 4.1-357 of the Code of Virginia, as created by this act, the Office of the**  
1331 **Attorney General shall conduct an additional underage buyer operation of the permittee within six**  
1332 **months of the Office of the Attorney General substantiating such violation.**