

SENATE BILL NO. 542  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee for Courts of Justice  
on February 4, 2026)  
(Patrons Prior to Substitute—Senators Aird and Rouse [SB 671])

*A BILL to amend and reenact §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1600, 4.1-1601, 4.1-1602, 4.1-1603, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-247, 18.2-248, 18.2-248.1, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1010, by adding sections numbered 4.1-1102 through 4.1-1107, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1407, by adding a section numbered 4.1-1602.1, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal §§ 4.1-1101.1, 4.1-1105.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.*

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

**1. That §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1600, 4.1-1601, 4.1-1602, 4.1-1603, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-247, 18.2-248, 18.2-248.1, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-255,**

18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1010, by adding sections numbered 4.1-1102 through 4.1-1107, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1407, by adding a section numbered 4.1-1602.1, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426 as follows:

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

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

1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;
2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;
3. Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and

disproportionately targeted by drug enforcement.

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

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

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

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

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

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

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

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including ~~but not limited to the~~ X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

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

93 section:

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

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

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

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

111 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the  
112 resolution of such complaints and shall be published and disseminated to all covered state employees. The  
113 appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured  
114 governmental health plans. The appeals process shall include a separate expedited emergency appeals  
115 procedure that shall provide resolution within time frames established by federal law. For appeals involving  
116 adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent  
117 review organizations to review such decisions. Independent review organizations are entities that conduct  
118 independent external review of adverse benefit determinations. The Department shall adopt regulations to  
119 assure that the independent review organization conducting the reviews has adequate standards, credentials,  
120 and experience for such review. The independent review organization shall examine the final denial of claims  
121 to determine whether the decision is objective, clinically valid, and compatible with established principles of  
122 health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings

of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

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

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

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

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

6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use

152 in the treatment of cancer on the basis that the drug has not been approved by the United States Food and  
153 Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if  
154 the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the  
155 standard reference compendia.

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

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

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

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

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

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

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

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

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

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

215 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering  
216 health services to any covered employee who is determined to be terminally ill (as defined under §  
217 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except  
218 when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for  
219 the remainder of the employee's life for care directly related to the treatment of the terminal illness.

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

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

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

229 For purposes of this subdivision:

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

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

235 "Multiple project assurance contract" means a contract between an institution and the federal Department  
236 of Health and Human Services that defines the relationship of the institution to the federal Department of  
237 Health and Human Services and sets out the responsibilities of the institution and the procedures that will be  
238 used by the institution to protect human subjects.



239 "NCI" means the National Cancer Institute.

240 "NIH" means the National Institutes of Health.

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

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

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

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

- 251 a. The National Cancer Institute;
- 252 b. An NCI cooperative group or an NCI center;
- 253 c. The FDA in the form of an investigational new drug application;
- 254 d. The federal Department of Veterans Affairs; or
- 255 e. An institutional review board of an institution in the Commonwealth that has a multiple project  
256 assurance contract approved by the Office of Protection from Research Risks of the NCI.

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

259 Coverage under this subdivision shall apply only if:

- 260 (1) There is no clearly superior, noninvestigational treatment alternative;
- 261 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at  
262 least as effective as the noninvestigational alternative; and
- 263 (3) The patient and the physician or health care provider who provides services to the patient under the  
264 plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures  
265 established by the plan.

266 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered  
267 employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee

268 following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines.  
269 Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when  
270 the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is  
271 appropriate.

272 17. Include coverage for biologically based mental illness.

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

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

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

288 18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery  
289 or such other methods as may be recognized by the National Institutes of Health as effective for the long-term  
290 reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments,  
291 and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for  
292 morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National  
293 Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100  
294 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan  
295 Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared  
296 with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep

apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

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

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

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

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

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums, and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs, and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the

327 Commonwealth, and shall be invested and administered solely in the interests of the employees and their  
328 beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or  
329 authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and  
330 administrative expenses, including ~~but not limited to~~ legislative oversight of the health insurance fund.

331 D. For the purposes of this section:

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

338 "Standard reference compendia" means:

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

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

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

353 F. Any self-insured group health insurance plan established by the Department of Human Resource  
354 Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis  
355 of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan  
356 criteria established by the Department.

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

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

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

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

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

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

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

386 preauthorization is required.

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

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

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

396 The Ombudsman shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii)

444 include the name and any last known address of the nonparticipating provider on the explanation of benefits  
445 statement.

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

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

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

460 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

461 The provisions of this chapter shall not apply to:

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



- 473 8. The presidents and teaching and research staffs of state educational institutions;
- 474 9. Commissioned officers and enlisted personnel of the National Guard;
- 475 10. Student employees at institutions of higher education and patient or inmate help in other state  
476 institutions;
- 477 11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees  
478 compensated on an hourly or daily basis;
- 479 12. County, city, town, and district officers, deputies, assistants, and employees;
- 480 13. The employees of the Virginia Workers' Compensation Commission;
- 481 14. The officers and employees of the Virginia Retirement System;
- 482 15. Employees whose positions are identified by the State Council of Higher Education and the boards of  
483 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,  
484 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,  
485 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of  
486 the Department of Human Resource Management as requiring specialized and professional training;
- 487 16. Employees of the Virginia Lottery;
- 488 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and  
489 service industries who have a human resources classification of industry worker;
- 490 18. Employees of the Virginia Commonwealth University Health System Authority;
- 491 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such  
492 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.  
493 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center  
494 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State  
495 Grievance Procedure (§ 2.2-3000 et seq.);
- 496 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,  
497 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy  
498 or administration. An employee serving in either one of these two positions shall be deemed to serve on an  
499 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
- 500 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
501 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Commonwealth Savers Plan;

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

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

26. Employees of the Virginia Indigent Defense Commission;

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

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

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

30. Officers and employees of the Fort Monroe Authority.

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

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia Cannabis Control Authority*, members of the board of directors of the Commonwealth of Virginia Innovation Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on

the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

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

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

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

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

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a

564 business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that  
565 he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or  
566 employee shall either make his declaration orally to be recorded in written minutes for his agency or file a  
567 signed written declaration with the clerk or administrative head of his governmental or advisory agency, as  
568 appropriate, who shall, in either case, retain and make available for public inspection such declaration for a  
569 period of five years from the date of recording or receipt. If reasonable time is not available to comply with  
570 the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare  
571 and file the required declaration by the end of the next business day.

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

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

585 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

587 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
588 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
589 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
590 schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
591 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting  
592 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some  
593 student and the student involved in the matter is present, provided that the teacher makes a written request to

be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to

623 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is  
624 consulted on a matter.

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

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

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

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

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

649 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to  
650 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in  
651 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the

governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.  
All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

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

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

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a

683 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
684 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or  
685 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement  
686 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of  
687 confidentiality, of the future value of such ownership interest or the future financial performance of the  
688 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed  
689 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
690 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the  
691 disclosure of information relating to the identity of any investment held, the amount invested or the present  
692 value of such investment.

693 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
694 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual  
695 child death cases are discussed by a regional or local child fatality review team established pursuant to  
696 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence  
697 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual  
698 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,  
699 those portions of meetings in which individual adult death cases are discussed by a local or regional adult  
700 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual  
701 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those  
702 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality  
703 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of  
704 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review  
705 Committee established pursuant to § 37.2-314.1.

706 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion  
707 University, as the case may be, and those portions of meetings of any persons to whom management  
708 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center  
709 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,  
710 business-related information pertaining to the operations of the University of Virginia Medical Center or the  
711 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business  
712 development or marketing strategies and activities with existing or future joint venturers, partners, or other



parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

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

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

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

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

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

743 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6  
744 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
745 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
746 public entity concerning such records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

812 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26  
813 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity  
814 Board.

815 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team  
816 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a  
817 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases  
818 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and  
819 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established  
820 pursuant to § 15.2-1627.6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

1001 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the  
1002 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who  
1003 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1004 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal  
1005 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf  
1006 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or  
1007 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1008 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
1009 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in  
1010 § 56-484.12, related to the provision of wireless E-911 service.

1011 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
1012 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy  
1013 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or  
1014 meetings of health regulatory boards or conference committees of such boards to consider settlement

1015 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by  
1016 either of the parties.

1017 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6  
1018 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
1019 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
1020 public entity concerning such records.

1021 29. Discussion of the award of a public contract involving the expenditure of public funds, including  
1022 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in  
1023 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

1024 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
1025 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1026 31. Discussion or consideration by the Commitment Review Committee of information subject to the  
1027 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent  
1028 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1029 32. Discussion or consideration of confidential proprietary information and trade secrets developed and  
1030 held by a local public body providing certain telecommunication services or cable television services and  
1031 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
1032 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

1033 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
1034 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
1035 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1036 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security  
1037 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections  
1038 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

1039 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
1040 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

1041 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
1042 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings  
1043 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider  
1044 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover  
1045 scholarship awards.

1046 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in  
1047 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port  
1048 Authority.

1049 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
1050 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by  
1051 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan  
1052 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee  
1053 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

1054 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6  
1055 related to economic development.

1056 40. Discussion or consideration by the Board of Education of information relating to the denial,  
1057 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1058 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by  
1059 executive order for the purpose of studying and making recommendations regarding preventing closure or  
1060 realignment of federal military and national security installations and facilities located in Virginia and  
1061 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a  
1062 local governing body, during which there is discussion of information subject to the exclusion in subdivision  
1063 8 of § 2.2-3705.2.

1064 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
1065 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
1066 information of donors.

1067 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
1068 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained  
1069 in grant applications.

1070 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of  
1071 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for  
1072 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary  
1073 information of a private entity provided to the Authority.

1074 45. Discussion or consideration of personal and proprietary information related to the resource  
1075 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection  
1076 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain

1077 information that has been certified for release by the person who is the subject of the information or  
1078 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,  
1079 or is the subject of, the information.

1080 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control  
1081 Authority *or the Board of Directors of the Virginia Cannabis Control Authority* of information subject to the  
1082 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and  
1083 of licensees and permittees.

1084 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion  
1085 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)  
1086 of Chapter 22.

1087 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26  
1088 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity  
1089 Board.

1090 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team  
1091 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a  
1092 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases  
1093 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and  
1094 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established  
1095 pursuant to § 15.2-1627.6.

1096 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
1097 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions  
1098 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33  
1099 of § 2.2-3705.7.

1100 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development  
1101 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information  
1102 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the  
1103 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

1104 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the  
1105 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of  
1106 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1107 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or

1108 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of  
1109 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to  
1110 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1111 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding  
1112 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting  
1113 and any discussion, consideration, or review of matters related to investigations excluded from mandatory  
1114 disclosure under subdivision 1 of § 2.2-3705.3.

1115 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of  
1116 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

1117 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed  
1118 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting  
1119 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that  
1120 shall have its substance reasonably identified in the open meeting.

1121 C. Public officers improperly selected due to the failure of the public body to comply with the other  
1122 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
1123 obtain notice of the legal defect in their election.

1124 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more  
1125 public bodies, or their representatives, but these conferences shall be subject to the same procedures for  
1126 holding closed meetings as are applicable to any other public body.

1127 E. This section shall not be construed to (i) require the disclosure of any contract between the Department  
1128 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)  
1129 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial  
1130 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial  
1131 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.  
1132 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the  
1133 actual date of the board's authorization of the sale or issuance of such bonds.

1134 **§ 2.2-3802. Systems to which chapter inapplicable.**

1135 The provisions of this chapter shall not apply to personal information systems:

- 1136 1. Maintained by any court of the Commonwealth;
- 1137 2. Which may exist in publications of general circulation;

1138 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in  
1139 the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant  
1140 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on  
1141 the Internet pursuant to § 9.1-913;

1142 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through  
1143 16.1-225;

1144 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to  
1145 engage in the practice of any profession, in which case the names and addresses of persons applying for or  
1146 possessing the license may be disseminated upon written request to a person engaged in the profession or  
1147 business of offering professional educational materials or courses for the sole purpose of providing the  
1148 licensees or applicants for licenses with informational materials relating solely to available professional  
1149 educational materials or courses, provided the disseminating agency is reasonably assured that the use of the  
1150 information will be so limited;

1151 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,  
1152 the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, ~~and~~ the Virginia Alcoholic  
1153 Beverage Control Authority, *and the Virginia Cannabis Control Authority*;

1154 7. Maintained by any of the following and that deal with investigations and intelligence gathering related  
1155 to criminal activity:

1156 a. The Department of State Police;

1157 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

1158 c. Police departments of cities, counties, and towns;

1159 d. Sheriff's departments of counties and cities;

1160 e. Campus police departments of public institutions of higher education as established by Article 3  
1161 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

1162 f. The Division of Capitol Police.

1163 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect  
1164 while such cases are also subject to an ongoing criminal prosecution;

1165 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1166 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of  
1167 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting

information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

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

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

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

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

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

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

**§ 2.2-4024. Hearing officers.**

A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may



1199 promulgate rules necessary for the administration of the hearing officer system and shall have the authority to  
1200 establish the number of hearing officers necessary to preside over administrative hearings in the  
1201 Commonwealth.

1202 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1203 1. Active membership in good standing in the Virginia State Bar;

1204 2. Active practice of law for at least five years; and

1205 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order  
1206 to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive  
1207 Secretary may require additional training before a hearing officer shall be assigned to a proceeding before  
1208 that agency.

1209 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the  
1210 list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic  
1211 preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency  
1212 demonstrates the need.

1213 C. A hearing officer appointed in accordance with this section shall be subject to disqualification as  
1214 provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1,  
1215 the petitioning party may request reconsideration of the denial by filing a written request with the Executive  
1216 Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the  
1217 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule  
1218 of practice requiring disqualification.

1219 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1220 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case  
1221 decision matter shall render that recommendation or conclusion as follows:

1222 1. If the agency's written regulations or procedures require the hearing officer to render a recommendation  
1223 or conclusion within a specified time period, the hearing officer shall render the recommendation or  
1224 conclusion on or before the expiration of the specified period; and

1225 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days  
1226 from the date of the case decision proceeding or from a later date agreed to by the named party and the  
1227 agency.

1228 If the hearing officer does not render a decision within the time required by this subsection, then the  
1229 agency or the named party to the case decision may provide written notice to the hearing officer and the  
1230 Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from  
1231 receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove  
1232 the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for  
1233 possible disciplinary action, unless good cause is shown for the delay.

1234 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after  
1235 written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a  
1236 decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the  
1237 delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for  
1238 reconsideration, followed by judicial review in accordance with this chapter.

1239 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the  
1240 members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia*  
1241 *Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation  
1242 Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2  
1243 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle  
1244 Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory  
1245 board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to  
1246 the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the  
1247 Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the  
1248 minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in  
1249 the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall  
1250 participate in periodic training courses.

1251 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing  
1252 officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources,  
1253 the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority  
1254 pursuant to their basic laws.

1255 *PART D.*

1256 *STATE AND TRIBAL RELATIONS.*

1257 *CHAPTER 61.*

## 1258 GENERAL PROVISIONS.

## 1259 § 2.2-6100. Governor compacts with tribal government; marijuana; requirements.

## 1260 A. For the purpose of this section:

1261 "Marijuana" means the same as that term is defined in § 4.1-600.

1262 "Marijuana establishment" means the same as that term is defined in § 4.1-600.

1263 "Marijuana industry" means every item, product, person, process, action, business, or other thing or  
1264 activity related to marijuana or marijuana products and subject to regulation under the law of a Virginia  
1265 Tribal government or under a compact entered into under this section.

1266 "Marijuana products" means the same as that term is defined in § 4.1-600.

1267 "Tribal marijuana business" means a marijuana cultivation facility, microbusiness, delivery operator,  
1268 testing facility, processing facility, transporter, or retail marijuana store licensed by a Virginia Tribal  
1269 government, as well as any other marijuana-related business that may be provided or licensed under the laws  
1270 of a Virginia Tribal government.

1271 "Tribally regulated land" means (i) all land held in trust by the United States for the benefit of a Virginia  
1272 Tribal government, also known as trust land, and (ii) all land held by a Virginia Tribal government in  
1273 restricted fee status.

1274 "Virginia Tribal government" means the following federally recognized Indian Tribes located in the  
1275 Commonwealth:

1276 1. Chickahominy Indian Tribe;

1277 2. Chickahominy Indian Tribe-Eastern Division;

1278 3. Monacan Indian Nation;

1279 4. Nansemond Indian Nation;

1280 5. Pamunkey Indian Tribe;

1281 6. Rappahannock Indian Tribe;

1282 7. Upper Mattaponi Tribe.

1283 B. The Commonwealth acknowledges the sovereign right of Virginia Tribal governments to regulate the  
1284 marijuana industry and address other matters of marijuana regulation related to the internal affairs of  
1285 Virginia Tribal governments or otherwise on Tribally regulated land, without regard to whether such  
1286 Virginia Tribal government has entered into a compact authorized by this section. The Governor or his  
1287 designee shall negotiate in good faith and has the authority to execute and bind the Commonwealth to a  
1288 compact with any Virginia Tribal government wishing to enter into such compact regulating marijuana and

1289 *marijuana products.*

1290 *C. A compact agreed to under this section may address any issues related to the marijuana industry that*  
1291 *affect the interests of both the Commonwealth and Virginia Tribal governments or otherwise have an impact*  
1292 *on Tribal-state relations. Indian tribes are not required to enter into compacts pursuant to this section in*  
1293 *order to (i) regulate the marijuana industry or engage in marijuana businesses or activities on Tribally*  
1294 *regulated lands or (ii) participate as a licensee in the Commonwealth's legal marijuana market.*

1295 *D. The Commonwealth shall not, as a condition for entering into a compact under this section:*

1296 *1. Require any Virginia Tribal government to waive any right, privilege, or immunity based on their status*  
1297 *as independent sovereigns;*

1298 *2. Require that any revenue generated by a Tribal marijuana business be subject to any license or*  
1299 *privilege tax imposed by a locality pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 or any taxes*  
1300 *authorized pursuant to § 4.1-1004;*

1301 *3. Require any taxes collected by Virginia Tribal governments to be shared in any manner with the*  
1302 *Commonwealth or any political subdivisions thereof;*

1303 *4. Require a Virginia Tribal government to consent to state licensing of marijuana businesses on the*  
1304 *Tribally regulated land;*

1305 *5. Require any Virginia Tribal government or Tribal marijuana business to comply with specific state law*  
1306 *or regulations on Tribally regulated land; or*

1307 *6. Impose or attempt to impose or require or attempt to require any Virginia Tribal government to impose*  
1308 *any taxes, fees, assessments, and other charges related to the cultivation, processing, sale, purchase,*  
1309 *transportation, delivery, or possession of marijuana or marijuana products on Virginia Tribal governments*  
1310 *or their members on Tribally regulated land.*

1311 *E. Compacts agreed to under this section may allow an exemption from any otherwise applicable tax for*  
1312 *(i) sales to a Virginia Tribal government, a Tribal marijuana business, or Tribal members of marijuana or*  
1313 *marijuana products cultivated or processed as provided for in such compacts or (ii) activities of Tribal*  
1314 *marijuana businesses.*

1315 *F. Without limiting any immunity or exemption that may apply under federal law, the following acts, when*  
1316 *performed by a Tribal marijuana business or an employee in the course of their employment for a Tribal*  
1317 *marijuana business, pursuant to a compact entered into pursuant to this section, do not constitute a criminal*  
1318 *or civil offense under state law:*

1319 *1. The cultivation of marijuana and the processing of marijuana or marijuana products;*

1320 2. The possession, purchase, and receipt of marijuana or marijuana products that are properly tested,  
1321 packaged, and labeled as authorized under a compact entered into pursuant to this section or the sale,  
1322 delivery, transport, or distribution of such marijuana or marijuana products to a licensed marijuana  
1323 establishment; and

1324 3. The delivery, distribution, or sale of marijuana or marijuana products as authorized under a compact  
1325 entered into pursuant to this section and that takes place on, or originates from, the premises of a Tribal  
1326 marijuana business on Tribally regulated land, to any person 21 years of age or older.

1327 G. The following acts, when performed by a patron of a Tribal marijuana business, do not constitute a  
1328 criminal or civil offense under state law: the purchase, possession, or receipt of marijuana or marijuana  
1329 products by a person 21 years of age or older as authorized under a compact entered into pursuant to this  
1330 section.

1331 H. Without limiting any immunity or exemption that may apply under federal law, actions by a Tribal  
1332 marijuana business or a Tribal member, employee, or agent of a Virginia Tribal government or Tribal  
1333 marijuana business on Tribally regulated land pursuant to Tribal laws governing marijuana, or a compact  
1334 entered into under this section, do not constitute a criminal or civil offense under state law.

1335 I. The following acts, when performed by a licensed marijuana establishment or an employee of such  
1336 licensed marijuana establishment, and which would be permitted pursuant to the Cannabis Control Act  
1337 (§ 4.1-600 et seq.) if undertaken with another licensed marijuana establishment, shall be permitted when  
1338 undertaken with a Tribal marijuana business and do not constitute a criminal or civil offense under state law:  
1339 the possession, purchase, wholesale and retail sale, delivery, transport, distribution, and receipt of marijuana  
1340 or marijuana products that are properly tested, packaged, and labeled as authorized under a compact  
1341 entered into pursuant to this section.

1342 J. Without limiting any immunity or exemption that may apply under federal law, the following acts, when  
1343 performed by a Virginia Tribal government, a Tribal marijuana business, or an employee of such Tribal  
1344 government or Tribal marijuana business, regardless of whether the Virginia Tribal government issuing such  
1345 license has entered into a compact with the Commonwealth under this section, do not constitute a criminal or  
1346 civil offense under state law: purchase, sale, receipt, or delivery, including delivery that involves transit  
1347 through the Commonwealth outside a reservation, of marijuana or marijuana products from or to another  
1348 Virginia Tribal government or Tribal marijuana business.

1349 K. Notwithstanding any other provision of law, a marijuana testing facility, as defined in § 4.1-600, may  
1350 provide testing services to a Tribal marijuana business and the possession or transport of marijuana or

1351 *marijuana products for such purpose by a Tribal marijuana business shall not constitute a criminal or civil*  
1352 *offense under state law.*

1353 *L. The Governor shall post any compact entered into pursuant this section on a publicly accessible*  
1354 *website.*

1355 **§ 3.2-4113. Production of industrial hemp lawful.**

1356 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his  
1357 agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful  
1358 purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11  
1359 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the  
1360 possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration  
1361 that does not exceed the total tetrahydrocannabinol concentration percentage established in federal  
1362 regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his agent or  
1363 processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,  
1364 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 or issued a summons or judgment for the possession,  
1365 handling, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or  
1366 proceeding brought for the enforcement of any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*,  
1367 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall  
1368 not be necessary to negate any exception, excuse, proviso, or exemption contained in this article or the Drug  
1369 Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the  
1370 defendant.

1371 B. Nothing in this article shall be construed to authorize any person to violate any federal law or  
1372 regulation.

1373 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,  
1374 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the involuntary growth of industrial hemp through the  
1375 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage  
1376 site, or process site.

1377 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1378 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the  
1379 Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for*  
1380 *violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by*  
1381 *him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the*

1382 *requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the*  
1383 *admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On*  
1384 *motion of the accused or any party in interest, the court may require the forensic scientist making the analysis*  
1385 *to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable*  
1386 *time prior to the day on which the case is set for trial.*

1387 **§ 4.1-600. Definitions.**

1388 As used in this subtitle, unless the context requires a different meaning:

1389 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is  
1390 calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or marijuana seeds,  
1391 including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor  
1392 display, publication, or radio or television broadcast.

1393 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

1394 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

1395 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

1396 "*Canopy*" means the space used by a licensee to produce flowering marijuana plants, including areas  
1397 between plants, pathways, walkways, and empty space between rows that allow for airflow, light, growth,  
1398 access for watering, trimming, and other activities associated with marijuana cultivation. "*Canopy*" does not  
1399 include space used for mother plants, clones, immature or nonflowering plants, processing, drying, curing,  
1400 trimming, storage, offices, hallways, work areas, or other administrative and nonproduction uses. If  
1401 flowering marijuana plants are cultivated using a shelving or other layered system, the surface area of each  
1402 level shall be included for purposes of calculating canopy.

1403 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to  
1404 be significantly difficult for a typical child ~~under~~ younger than five years of age to open and not to be  
1405 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a  
1406 single use or that contains multiple servings, resealable.

1407 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,  
1408 trimming, *packaging*, or other similar ~~processing~~ *manufacturing* of marijuana for use or sale. "Cultivation" or  
1409 "cultivate" does not include ~~manufacturing~~ *processing* or testing.

1410 "*Edible hemp product*" means the same as that term is defined in § 3.2-4112.

1411 "Edible marijuana product" means a marijuana product intended to be consumed orally, including  
1412 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

1413 *"Hemp product" means the same as that term is defined in § 3.2-4112.*

1414 *"Historically economically disadvantaged community" means either (i) a jurisdiction identified by the*  
1415 *Board utilizing census tract data made available by the United States Census Bureau in which offenses for*  
1416 *marijuana possession were committed at a rate in excess of 150 percent of the statewide average for*  
1417 *marijuana possession offenses during the 10-year period of 2009 to 2019 or (ii) a historically underutilized*  
1418 *business zone as defined in 15 U.S.C. § 657a.*

1419 *"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider*  
1420 *than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.*

1421 *"Impact licensee" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-606.*

1422 *"Industrial hemp" means the same as that term is defined in § 3.2-4112.*

1423 *"Industrial hemp extract" means the same as that term is defined in § 3.2-5145.1.*

1424 *"Inhalable marijuana product" means a marijuana product intended to be inhaled, including marijuana*  
1425 *intended to be inhaled or marijuana concentrate intended to be inhaled.*

1426 *"Licensed" means the holding of a valid license granted by the Authority.*

1427 *"Licensee" means any person to whom a license has been granted by the Authority.*

1428 ~~"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing,~~  
1429 ~~compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or~~  
1430 ~~preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation~~  
1431 ~~or testing.~~

1432 *"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin;*  
1433 *and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,*  
1434 *or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of*  
1435 *such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such*  
1436 *stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp; as*  
1437 ~~defined in § 3.2-4112~~, *that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his*  
1438 *agent; (iii) industrial hemp; as defined in § 3.2-4112, *that is possessed by a person who holds a hemp*  
1439 *producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp*  
1440 *product; as defined in § 3.2-4112; *(v) an industrial hemp extract; as defined in § 3.2-5145.1*; *or (vi) any*  
1441 *substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether*  
1442 *that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act*  
1443 *(§ 54.1-3400 et seq.) pursuant to § 54.1-3443.***



1444 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active  
1445 cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant  
1446 is a concentrate for purposes of this subtitle.

1447 "Marijuana cultivation facility" means a facility licensed under ~~this subtitle to cultivate, label, and~~  
1448 ~~package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana~~  
1449 ~~cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and~~  
1450 ~~marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail~~  
1451 ~~marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer~~  
1452 ~~possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana~~  
1453 ~~plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use~~  
1454 ~~§ 4.1-800.~~

1455 *"Marijuana delivery operator" means an entity licensed under § 4.1-805.*

1456 "Marijuana establishment" means a marijuana cultivation facility, ~~a marijuana microbusiness, marijuana~~  
1457 ~~delivery operator, marijuana testing facility, a marijuana manufacturing processing facility, a marijuana~~  
1458 ~~wholesaler transporter, or a retail marijuana store.~~

1459 ~~"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and~~  
1460 ~~package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana~~  
1461 ~~from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession~~  
1462 ~~of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or~~  
1463 ~~other marijuana manufacturing facilities.~~

1464 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either  
1465 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,  
1466 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,  
1467 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the  
1468 human body marijuana.

1469 *"Marijuana processing facility" means a facility licensed under § 4.1-801.*

1470 "Marijuana products" means (i) products that are composed of marijuana and other ingredients and are  
1471 intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

1472 "Marijuana testing facility" means a facility licensed under ~~this subtitle to develop, research, or test~~  
1473 ~~marijuana, marijuana products, and other substances § 4.1-806.~~

1474 "Marijuana ~~wholesaler transporter~~" means a facility licensed under this subtitle to purchase or take  
1475 possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds  
1476 from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and  
1477 to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants,  
1478 and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana  
1479 store, or another marijuana wholesaler § 4.1-804.

1480 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed  
1481 marijuana establishment.

1482 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a  
1483 licensed marijuana establishment.

1484 "Microbusiness" means a facility licensed under § 4.1-803.

1485 "Outdoor cultivation" means cultivation in an area exposed to natural sunlight and open to environmental  
1486 conditions, including variable temperature, precipitation, and wind.

1487 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
1488 designated in the application for a license as the place at which the cultivation, ~~manufacture~~ processing, sale,  
1489 or testing of retail marijuana or retail marijuana products shall be performed, ~~except that portion of any such~~  
1490 ~~building or other improvement actually and exclusively used as a private residence.~~

1491 "Principal" means any individual who solely or together with his immediate family members (i) owns or  
1492 controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee or  
1493 permittee (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other  
1494 ownership interests of such entity, and any person who manages marijuana establishment operations on  
1495 behalf of a licensee or permittee.

1496 "Processing" or "process" means the production of marijuana products or the blending, infusing,  
1497 compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or  
1498 preparation by means of chemical synthesis. "Processing" or "process" does not include cultivation or  
1499 testing.

1500 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,  
1501 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,  
1502 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

1503 "Residence" means any building or part of a building or structure where a person resides, but does not  
1504 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a

1505 hotel or club other than a private guest room thereof.

1506 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana  
1507 establishment.

1508 "Retail marijuana products" means marijuana products that are manufactured and sold by a licensed  
1509 marijuana establishment.

1510 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of  
1511 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana  
1512 cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana,  
1513 retail marijuana products, immature marijuana plants, or marijuana seeds to consumers § 4.1-802.

1514 "Security" means the same as that term is defined in § 13.1-501. If the Board finds that any obligation,  
1515 stock, or other equity interest creates control of or voice in the management operations of an entity in the  
1516 manner of a security, then such interest shall be considered a security.

1517 "Sale" and "sell" includes soliciting or receiving an order for, keeping, offering, or exposing for sale;  
1518 peddling, exchanging, or bartering; or delivering otherwise other than gratuitously, by any means, retail  
1519 marijuana or retail marijuana products.

1520 "Secure agricultural greenhouse" means an enclosed structure that has transparent walls and roofing and  
1521 is used for controlled-environment agriculture.

1522 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has  
1523 designated as a law-enforcement officer pursuant to this subtitle.

1524 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances  
1525 for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing  
1526 processing.

1527 "Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

1528 "Topical marijuana product" means a marijuana product intended to be applied topically to the skin,  
1529 including marijuana intended to be applied topically to the skin or marijuana concentrate intended to be  
1530 applied topically to the skin.

1531 "Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

1532 **§ 4.1-601. Virginia Cannabis Control Authority created; statement of purpose.**

1533 A. The General Assembly has determined that there exists in the Commonwealth a need to control the  
1534 possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in  
1535 the Commonwealth. Further, the General Assembly finds that laws prohibiting the use and sale of marijuana

1536 *have been ineffective and have had devastating collateral consequences for individuals and communities*  
1537 *across the Commonwealth, disproportionately impacting African Americans. The purpose of this subtitle is to*  
1538 *create an approach to marijuana regulation that is rooted in principles of restorative justice, economic*  
1539 *equity, and public health in order to generate significant revenue dedicated to community reinvestment,*  
1540 *create small and local businesses, strengthen the Commonwealth's vital agriculture sector, end the racially*  
1541 *disparate impacts of prohibition, and protect the health and safety of all citizens of the Commonwealth. This*  
1542 *subtitle is further intended to establish a competitive, sustainable, and decentralized market structure built*  
1543 *for long-term success, prioritizing the creation of durable, independent businesses over the maximization of*  
1544 *short-term tax revenue.*

1545     B. Further, the General Assembly determines that the creation of an authority for this purpose is in the  
1546 public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and  
1547 prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an  
1548 independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial  
1549 branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's  
1550 exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential  
1551 governmental function and a matter of public necessity for which public moneys may be spent.

1552     ~~B:~~ C. The Board of Directors of the Authority is vested with control of the possession, sale, transportation,  
1553 distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the Commonwealth, with  
1554 plenary power to prescribe and enforce regulations and conditions under which ~~retail~~ marijuana and ~~retail~~  
1555 marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt,  
1556 incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and  
1557 prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in  
1558 all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health,  
1559 welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of,  
1560 or be distributable to, any private individual, except that reasonable compensation may be paid for services  
1561 rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are  
1562 in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any  
1563 of the corporate assets on dissolution of the Authority.

1564     **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**  
1565 **compensation and expenses; duties.**

1566     A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory

1567 council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues,  
1568 trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding  
1569 health warnings, ~~retail~~; marijuana and ~~retail~~ marijuana products safety and product composition; and public  
1570 health awareness, programming, and related resource needs.

1571 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14  
1572 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council  
1573 shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of  
1574 the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by  
1575 the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for  
1576 Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy  
1577 of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom  
1578 shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the  
1579 House of Delegates, one of whom shall be a representative from a community services board, one of whom  
1580 shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one  
1581 of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of  
1582 whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with  
1583 experience in veterans health care, and one of whom shall be a person with a social or health equity  
1584 background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one  
1585 of whom shall be a representative of a local health district, one of whom shall be a person who is part of the  
1586 cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of  
1587 whom shall be a registered medical cannabis patient.

1588 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of  
1589 Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services,  
1590 the Director of the Department of Health Professions, the Director of the Department of Forensic Science,  
1591 and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex  
1592 officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with  
1593 their terms of office.

1594 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four  
1595 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.

1596 Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

1597 ~~The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.~~

1598 The Advisory Council shall select a ~~vice-chairman~~ *chair and vice-chair* from among its membership. A

1599 majority of the members shall constitute a quorum *unless the Advisory Council adopts a policy by the*

1600 *affirmative vote of a majority of the Advisory Council members that allows for a lesser number of members to*

1601 *constitute a quorum, which shall be no less than nine members.* The Advisory Council shall meet at least two

1602 times each year and shall meet at the call of the ~~chairman~~ *or chair*, whenever the majority of the members so

1603 request, *or upon the Board's submission of regulations to the Advisory Council for approval.*

1604 The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,

1605 and state agency representatives.

1606 C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for

1607 all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813

1608 and 2.2-2825.

1609 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to

1610 fulfill its purpose as described in subsection A:

1611 1. To review multi-agency efforts to support collaboration and a unified approach on public health

1612 responses related to marijuana and marijuana legalization in the Commonwealth and to develop

1613 recommendations as necessary.

1614 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the

1615 Commonwealth and the science and medical information relevant to the potential health risks associated with

1616 such drug use, and make appropriate recommendations to the Department of Health and the Board.

1617 3. ~~Submit~~ *To review and approve Board regulations related to public health pursuant to subsection F of*

1618 *§ 4.1-606. The Advisory Council shall approve or deny such regulations within 30 calendar days of the*

1619 *Board's submission of the regulations to the Advisory Council. If the Advisory Council fails to approve or*

1620 *deny a regulation within 30 calendar days, the Advisory Council shall request a 30-day extension to review*

1621 *the regulations from the Board or provide a written explanation to the Board on why the Advisory Council*

1622 *failed to approve or deny the regulation within calendar days. If the Advisory Council fails to approve or*

1623 *deny a regulation within 30 calendar days and does not request an extension, the Board may adopt such*

1624 *regulation without approval by the Advisory Council.*

1625 4. *To submit* an annual report to the Governor and the General Assembly for publication as a report

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

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

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;
2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;
3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized pursuant to this subtitle;
4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;
5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;
6. Establish standards and implement an online course for employees of retail marijuana stores *and microbusinesses* that trains employees on how to educate consumers on the potential risks of marijuana use;
7. Establish a plan to develop and disseminate to retail marijuana store *and microbusinesses* licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;
8. Establish a position for a Cannabis ~~Social Equity~~ *Impact Business* Liaison who shall lead the Cannabis *Impact Business* ~~Equity and Diversity~~ Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to ~~diversity, equity, and inclusion standards~~ *impact licensee participation* in the marijuana industry;
9. Establish a Cannabis *Impact Business* ~~Equity and Diversity~~ Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion *plans and define impact licensee business accelerator plans* ~~by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan,~~ *with the ability to coordinate with public institutions of higher education* and an approval process and requirements for implementation of such plans; (ii) be responsible for

1657 conducting an analysis of potential barriers to entry for ~~small, women-owned, and minority-owned businesses~~  
1658 ~~and veteran-owned~~ *impact* businesses interested in participating in the marijuana industry and recommending  
1659 strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for  
1660 potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the  
1661 marijuana marketplace in ~~areas disproportionately impacted by marijuana prohibition and enforcement~~  
1662 *historically economically disadvantaged communities*; (v) provide technical assistance in navigating the  
1663 administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach  
1664 initiatives in ~~areas disproportionately impacted by marijuana prohibition and enforcement~~ *historically*  
1665 *economically disadvantaged communities* as necessary;

1666 10. Establish a position for an individual with professional experience in a health related field who shall  
1667 staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office  
1668 of the Secretary of Health and Human Resources and relevant health and human services agencies and  
1669 organizations, and perform other duties as needed;

1670 11. Establish and implement a plan, in coordination with the Cannabis ~~Social Equity Impact Business~~  
1671 ~~Liaison and the Director of Diversity, Equity, and Inclusion~~, to promote and encourage participation in the  
1672 marijuana industry by people from *historically economically disadvantaged communities* ~~that have been~~  
1673 ~~disproportionately impacted by marijuana prohibition and enforcement~~ and to positively impact those  
1674 communities;

1675 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

1676 13. Adopt, use, and alter at will a common seal;

1677 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale  
1678 of products of, or services rendered by the Authority at rates to be determined by the Authority for the  
1679 purpose of providing for the payment of the expenses of the Authority;

1680 15. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
1681 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including  
1682 agreements with any person or federal agency;

1683 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,  
1684 investment bankers, superintendents, managers, and such other employees and special agents as may be  
1685 necessary and fix their compensation to be payable from funds made available to the Authority. ~~Legal~~ *The*  
1686 *Board may employ or retain legal counsel of its choice to advise or represent the Authority in hearings,*  
1687 *controversies, or other matters involving the interests of the Authority; however, upon request by the Board,*



1688 *the Attorney General shall provide legal services for the Authority shall be provided by the Attorney General*  
1689 *in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;*

1690 17. Receive and accept from any federal or private agency, foundation, corporation, association, or person  
1691 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept  
1692 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or  
1693 from any other source aid or contributions of either money, property, or other things of value, to be held,  
1694 used, and applied only for the purposes for which such grants and contributions may be made. All federal  
1695 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and  
1696 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys  
1697 accepted under this section shall be expended by the Authority upon such terms and conditions as are  
1698 prescribed by the Commonwealth;

1699 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business  
1700 shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties  
1701 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any  
1702 officer or employee of the Authority. The Board shall remain responsible for the performance of any such  
1703 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by  
1704 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall  
1705 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the  
1706 Board of the responsibility to ensure faithful performance of the duties and tasks;

1707 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's  
1708 purposes or necessary or convenient to exercise its powers;

1709 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
1710 construction, based upon competitive principles;

1711 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title  
1712 2.2;

1713 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
1714 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
1715 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,  
1716 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to

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

1723 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered  
1724 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and  
1725 processing plants;

1726 24. Appoint every agent and employee required for its operations, require any or all of them to give bonds  
1727 payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of  
1728 experts and professionals;

1729 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production  
1730 of records, memoranda, papers, and other documents before the Board or any agent of the Board, and  
1731 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the  
1732 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and  
1733 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may  
1734 enter into consent agreements and may request and accept from any applicant, licensee, or permittee a  
1735 consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii)  
1736 disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding  
1737 whether the terms of the consent agreement are confidential and (b) may include an admission or a finding of  
1738 a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject  
1739 to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be  
1740 considered by the Board in future disciplinary proceedings;

1741 26. Make a reasonable charge for preparing and furnishing statistical information and compilations to  
1742 persons other than (i) officials, including court and police officials, of the Commonwealth and of its  
1743 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal  
1744 interest in obtaining the information requested if such information is not to be used for commercial or trade  
1745 purposes;

1746 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for

1747 violations of this subtitle and Board regulations;

1748 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive  
1749 Officer as the Board deems appropriate;

1750 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement  
1751 activities undertaken to enforce the provisions of this subtitle;

1752 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with  
1753 applications for such permits;

1754 31. Develop and make available on its website guidance documents regarding compliance and safe  
1755 practices for persons who cultivate marijuana at home for personal use, which shall include information  
1756 regarding cultivation practices that promote personal and public safety, including child protection, and  
1757 discourage practices that create a nuisance;

1758 32. Develop and make available on its website a resource that provides information regarding (i)  
1759 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana  
1760 consumption, including inability to operate a motor vehicle and other types of transportation and equipment;  
1761 and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment  
1762 opportunities. The Board shall require that the web address for such resource be included on the label of all  
1763 ~~retail~~ marijuana and ~~retail~~ marijuana product as provided in § ~~4.1-1402~~ 4.1-1405; and

1764 33. *Access during business hours any facility governed by this subtitle and any business that offers for*  
1765 *sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised*  
1766 *or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing samples to*  
1767 *identify potential violations of this subtitle;*

1768 34. *Conduct training that is open to the public and provide educational resources to the public on the*  
1769 *application process for licenses;*

1770 35. *Develop and provide consumer education that (i) highlights the ways purchasing marijuana and*  
1771 *marijuana products from or cultivated and processed by licensees supports farmers, small business, and*  
1772 *community reinvestment; (ii) educates consumers on how to recognize licensed retail marijuana stores and*  
1773 *microbusinesses; and (iii) informs consumers about responsible marijuana consumption and health risks and*  
1774 *other dangers associated with marijuana consumption.*

1775 36. *Issue a quarterly report that contains information regarding (i) license fees waived or reduced*  
1776 *pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of*

1777 § 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under  
1778 the influence, underage consumption and youth awareness, and health risks; (iv) community engagement  
1779 initiatives; (v) sales and tax revenue; (vi) programs funded by marijuana tax revenue; (vii) efforts made  
1780 pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken;

1781 37. Maintain a public registry available online of ownership information for all licensees;

1782 38. Develop policies and procedures generally applicable to the audit of ownership and financial  
1783 relationships across all licenses on a schedule established by the Board. The audits shall be conducted by an  
1784 independent certified public accountant and the costs of such audits shall be borne by the licensee;

1785 39. Beginning on July 1, 2028, and each July 1 thereafter, issue an annual report on the performance and  
1786 health of the marijuana retail market in the Commonwealth, including information related to: (i) sales and  
1787 tax revenue, including information on sales and tax revenue broken down by marijuana and marijuana  
1788 product category; (ii) the distribution of tax revenue; (iii) the total number of licenses issued and the number  
1789 of licensees actively operating in the Commonwealth; (iv) ownership diversity; (v) the number of jobs created  
1790 in the marijuana industry, including information on the number of people employed by specific license type;  
1791 (vi) average wholesale and retail prices of different types of marijuana and marijuana products; (vii) licenses  
1792 issued to or renewed for persons identified in subdivision B 13 of § 4.1-606; (viii) an anonymized summary of  
1793 the compliance findings from any audit of ownership and financial relationships across all licenses  
1794 conducted pursuant to the policies and procedures of subdivision 38; (ix) whether licensees with substantial  
1795 market share of any category of licensure have an impact on the goals of (a) inclusion of microbusiness and  
1796 impact licensees in the market, (b) maintaining adequate supplies of marijuana, and (c) prevention of  
1797 dominant marketplace participation in the marijuana industry; (x) the potential expansion or contraction of  
1798 the marijuana market in the Commonwealth, which may include information related to any increase in retail  
1799 marijuana sales and activity in the illicit market; (xi) information on the viability of marijuana establishments  
1800 in the Commonwealth; (xii) the feasibility of requiring pharmaceutical processors and cannabis dispensing  
1801 facilities issued a permit by the Board pursuant to the provisions of Chapter 16 (§ 4.1-1600 et seq.) to offer  
1802 for sale a certain amount or percentage of marijuana and marijuana products cultivated or processed by  
1803 microbusinesses and impact licensees, including a proposed timeline for when such requirement may go into  
1804 effect; and (xiii) any recommendations, including recommendations for statutory or regulatory changes, to  
1805 strengthen the Commonwealth's marijuana retail market;

1806 40. Investigate the ownership and control interests of all licensees and approve or deny ownership,  
1807 financing, management, and brand-licensing agreements or contracts and issue divestiture orders as deemed

1808 *appropriate to ensure compliance with § 4.1-807;*

1809 *41. Coordinate with the Department of Criminal Justice Services to ensure the exchange of any*  
1810 *information necessary to comply with the reporting requirements of the Community Policing Reporting*  
1811 *Database established pursuant to § 52-30.3; and*

1812 *42. Do all acts necessary or advisable to carry out the purposes of this subtitle.*

1813 **§ 4.1-606. Regulations of the Board.**

1814 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general  
1815 laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent  
1816 the illegal cultivation, ~~manufacture~~ *processing, transportation, distribution*, sale, and testing of marijuana and  
1817 marijuana products. The Board may amend or repeal such regulations. ~~Such~~ *Except as otherwise provided by*  
1818 *law, such* regulations shall be promulgated, amended, or repealed in accordance with the Administrative  
1819 Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

1820 B. The Board shall promulgate regulations that:

1821 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including  
1822 security requirements to include lighting, physical security, and alarm requirements, provided that such  
1823 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

1824 2. Establish requirements for (i) securely transporting marijuana between marijuana establishments *and*  
1825 *(ii) securely delivering marijuana or marijuana products from retail marijuana stores or microbusinesses*  
1826 *only in person to consumers, which shall include requirements for age verification, delivery radius, and*  
1827 *recordkeeping;*

1828 3. Establish sanitary standards for ~~retail~~ marijuana product preparation;

1829 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to Chapter 14  
1830 (§ 4.1-1400 et seq.);

1831 5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a  
1832 way that, when possible, prevents disparate impacts on historically *economically* disadvantaged communities;

1833 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and ~~retail~~  
1834 marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the  
1835 provisions of this subtitle;

1836 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not exceed  
1837 (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an equivalent amount  
1838 for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible marijuana products and where

1839 practicable an equivalent amount for other marijuana products. Such regulations may include other product  
1840 and dispensing limitations on tetrahydrocannabinol;

1841 8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

1842 9. Provide alternative methods for licensees to maintain and store business records that are subject to  
1843 Board inspection, including methods for Board-approved electronic and offsite storage;

1844 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores  
1845 in the community and (ii) metrics that have similarly shown an association with negative community-level  
1846 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the  
1847 Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

1848 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer  
1849 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the  
1850 address on record with the Board by certified mail, return receipt requested, and by regular mail;

1851 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to  
1852 subsection C of § 4.1-1002 ~~4.1-1003~~;

1853 13. Establish ~~criteria~~ *a process* by which to ~~evaluate social equity~~ *identify impact* license applicants,  
1854 which shall be an applicant ~~who has lived or been domiciled for at least 12 months in the Commonwealth and~~  
1855 ~~is either (i) an applicant with that has at least 66 percent ownership and direct control by a person or persons~~  
1856 ~~who meet the criteria in clause (iii) and one more of the following seven criteria: (i) have been convicted of~~  
1857 ~~or adjudicated delinquent for any misdemeanor or felony violation of § 18.2-248.1, former § 18.2-250.1, or~~  
1858 ~~subsection A of § 18.2-265.3 as it relates to marijuana or any substantially similar offense under the laws of~~  
1859 ~~another jurisdiction; (ii) an applicant with at least 66 percent ownership by a person or persons who is are the~~  
1860 ~~parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any~~  
1861 ~~misdemeanor or felony violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it~~  
1862 ~~relates to marijuana or any substantially similar offense under the laws of another jurisdiction; (iii) an~~  
1863 ~~applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the~~  
1864 ~~past five years (a) between the years 2011 and 2025 in a jurisdiction that is determined by the Board, after~~  
1865 ~~utilizing census tract data made available by the United States Census Bureau, is determined to have been~~  
1866 ~~disproportionately policed for marijuana crimes or (b) for at least three of the past five years in a historically~~  
1867 ~~economically disadvantaged community; (iv) an applicant with at least 66 percent ownership by a person or~~  
1868 ~~persons who have resided for at least three of the last five years in a jurisdiction determined by the Board~~  
1869 ~~after utilizing census tract data made available by the United States Census Bureau to be economically~~

1870 distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from  
1871 a historically black have attended for at least five years a public elementary or secondary school located in a  
1872 historically economically disadvantaged community; (v) have received a Federal Pell Grant or attended for  
1873 at least two years a college or university located in the Commonwealth at which at least 30 percent of the  
1874 students, on average, are eligible for a Federal Pell Grant; (vi) are veterans of the Armed Forces of the  
1875 United States; or (vii) have qualified for financial assistance or relief from the U.S. Department of  
1876 Agriculture as a distressed farmer in the last five years;

1877 14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish  
1878 standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana  
1879 crimes and (ii) which jurisdictions are economically distressed;

1880 ~~15. Establish~~ For impact license applicants, establish standards and requirements for (i) ~~any~~ a preference  
1881 in the licensing process for qualified social equity applicants; (ii) what percentage of application or license  
1882 fees are waived for a qualified social equity applicant, and to promote participation by impact licensees with  
1883 an inability to pay standard application and license fees; (iii) a low-interest business loan program for  
1884 qualified social equity applicants; (iv) a waiver of any requirements to show proof of funds or current  
1885 possession and control of the proposed licensed premises at the time of application; and (v) to the extent  
1886 practicable, the proportional distribution of licenses among the applicants set forth in clauses (i) through  
1887 (vii) of subdivision 13. If at any time the Board determines that an impact license was obtained on the basis  
1888 of a fraudulent financial transaction or predatory operating agreement or if a prohibited assignment, sale, or  
1889 transfer of an impact license occurs in violation of subsection C of § 4.1-702, the Board shall immediately  
1890 begin revocation proceedings pursuant to § 4.1-903 and require the original impact licensee and any other  
1891 true parties of interest to repay to the Commonwealth the full value of any and all application or licensing  
1892 fees that were waived;

1893 ~~16. 15.~~ Establish guidelines, in addition to requirements set forth in this subtitle, for the personal  
1894 cultivation of marijuana that promote personal and public safety, including child protection, and discourage  
1895 personal cultivation practices that create a nuisance, including a nuisance caused by odor;

1896 ~~17. 16.~~ Establish reasonable time, place, and manner restrictions on outdoor advertising of ~~retail~~ marijuana  
1897 or ~~retail~~ marijuana products, not inconsistent with the provisions of this chapter, so that such advertising  
1898 displaces the illicit market and notifies the public of the location of marijuana establishments. Such  
1899 regulations shall be promulgated in accordance with § ~~4.1-1404~~ 4.1-1402;

1900 ~~18. 17.~~ Establish restrictions on the number of licenses that a person may be granted to operate a

1901 marijuana establishment in single locality or region; and

1902 ~~19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been~~  
1903 ~~granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all~~  
1904 ~~licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit~~  
1905 ~~the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp~~  
1906 ~~processor that such processor may offer for sale in its retail marijuana stores~~

1907 *18. Allow impact licensees and microbusinesses to (i) enter into cooperative agreements; (ii) lease space*  
1908 *and equipment and cultivate, process, and sell marijuana and marijuana products on the premises of another*  
1909 *licensee; and (iii) process marijuana or marijuana products out of a shared processing space;*

1910 *19. Establish an approval process for the Board to approve or deny ownership, financing, management,*  
1911 *and brand-licensing agreements to ensure compliance with § 4.1-807 and establish objective criteria for*  
1912 *determining whether a financial arrangement between a licensee and another party constitutes undue*  
1913 *influence, including the consideration of factors such as price-setting authority, shelf-space control,*  
1914 *financing dependency, or shared personnel; and*

1915 *20. Establish procedures governing ownership disclosure, prior written approval of the Board for the*  
1916 *assignment, sale, or transfer of any license or any change in ownership or control and background*  
1917 *investigations of transferees. Such regulations shall (i) require that ownership interests be traced through all*  
1918 *intermediary entities to the ultimate beneficial owners and (ii) include provisions specifying that a change of*  
1919 *control occurs upon the (a) acquisition of 25 percent or more of equity or voting power, (b) execution of any*  
1920 *instrument conferring appointment or removal rights over managers, or (c) cumulative transfers totaling 25*  
1921 *percent or more within any 24-month period.*

1922 C. The Board may promulgate regulations that:

1923 ~~1. Limit~~ *Set the number of licenses issued by type or class to operate a marijuana establishment in order to*  
1924 *ensure that there is a sufficient supply of marijuana to meet demand, provide market stability, avoid market*  
1925 *dominance, ensure a competitive market that considers small business opportunities and concerns, and limit*  
1926 *the sale of unregulated marijuana; however, the number of licenses issued before January 1, 2028, shall not*  
1927 *exceed the following limits:*

1928 a. Retail marijuana stores, ~~400~~ 350; and

1929 b. ~~Marijuana wholesalers, 25;~~

1930 c. ~~Marijuana manufacturing facilities, 60; and~~

1931 d. ~~Marijuana cultivation facilities, 450~~ Tier V marijuana cultivation facilities, 5.



1932 In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any  
1933 license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a  
1934 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or  
1935 (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services  
1936 pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

1937 *Beginning January 1, 2028, the Board shall determine the number of retail marijuana store and tier V*  
1938 *marijuana cultivation facility licenses that the Authority will issue consistent with the goals identified in this*  
1939 *subsection. If the Board makes an additional number of those licenses available, the number of licenses*  
1940 *available to impact licensee applicants shall be equal to or greater than the number of licenses available to*  
1941 *all other applicants.*

1942 *The Board may issue as many licenses as it deems necessary for any other license type not specified in*  
1943 *this subdivision. If the Board does limit the number of licenses available for any other license type not*  
1944 *specified in this subdivision, the number of licenses available to impact licensee applicants shall be equal to*  
1945 *or greater than the number of licenses available to all other applicants.*

1946 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and §  
1947 4.1-1004, including method of filing a return, information required on a return, and form of payment.

1948 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 2,500  
1949 square feet of retail floor space.

1950 4. ~~Allow certain persons to be granted or have interest in a license in more than one of the following~~  
1951 ~~license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana~~  
1952 ~~wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical~~  
1953 ~~integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to~~  
1954 ~~participate in the market. Ensure that marijuana establishment licenses are, as possible and practicable,~~  
1955 *issued evenly among all areas of the Commonwealth; and*

1956 5. *Establish additional market-concentration thresholds, including regional or statewide market-share*  
1957 *and Herfindahl-Hirschman Index (HHI) benchmarks and policies and procedures for denying or*  
1958 *conditioning the issuance of licenses or approval of transfers of licenses that would create undue market*  
1959 *concentration.*

1960 D. Board regulations shall be uniform in their application, except those relating to hours of sale for  
1961 licensees.

1962 E. Courts shall take judicial notice of Board regulations.

1963 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any  
1964 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7,  
1965 10, or ~~16~~ 15, and, *except as otherwise provided in § 4.1-603*, shall not promulgate any such regulation that  
1966 has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

1967 G. ~~With regard to regulations governing licensees that have been issued a permit by the Board of~~  
1968 ~~Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2~~  
1969 ~~(§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such~~  
1970 ~~regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health,~~  
1971 ~~safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to~~  
1972 ~~deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical~~  
1973 ~~processors and cannabis dispensing facilities that have been found to be in compliance with regulations~~  
1974 ~~promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations~~  
1975 ~~promulgated pursuant to this subtitle.~~

1976 H. The Board's power to regulate shall be broadly construed.

1977 **§ 4.1-607. Board membership; terms; compensation.**

1978 A. The Authority shall be governed by a Board of Directors, which shall consist of ~~five~~ *seven* citizens at  
1979 *large as follows: five members* appointed by the Governor and confirmed by the affirmative vote of a majority  
1980 of those voting in each house of the General Assembly *and two members appointed by the Joint Rules*  
1981 *Committee and confirmed by the affirmative vote of a majority of those voting in each house of the General*  
1982 *Assembly.* Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three  
1983 years next preceding his appointment, and his continued residency shall be a condition of his tenure in office;  
1984 (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a  
1985 minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or  
1986 control of a business or legal affairs. *Members shall be appointed in a manner that ensures expertise among*  
1987 *the Board members in health, law, agriculture, finance, and law enforcement.* Appointees shall reflect the  
1988 racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a  
1989 background check in accordance with § 4.1-609.

1990 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members  
1991 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired  
1992 term. No member ~~appointed by the Governor~~ shall be eligible to serve more than two consecutive terms;  
1993 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the

1994 Board may be removed from office by the ~~Governor~~ *appointing authority* for cause, including the improper  
1995 use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,  
1996 conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution  
1997 or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

1998 C. The Governor shall appoint the ~~chairman~~ *chair* and ~~vice-chairman~~ *vice-chair* of the Board from among  
1999 the membership of the Board. The Board may elect other subordinate officers, who need not be members of  
2000 the Board. The Board may also form committees and advisory councils, which may include representatives  
2001 who are not members of the Board, to undertake more extensive study and discussion of the issues before the  
2002 Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and  
2003 no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties  
2004 of the Authority.

2005 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be  
2006 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written  
2007 request of a majority of the Board members.

2008 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of  
2009 expenses for the performance of their official duties as set forth in the general appropriation act for members  
2010 of the House of Delegates when the General Assembly is not in session, except that the ~~chairman~~ *chair* of the  
2011 Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance  
2012 of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when  
2013 the General Assembly is not in session.

2014 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall  
2015 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the  
2016 Authority.

2017 **§ 4.1-611. Seed-to-sale tracking system.**

2018 To ensure that no ~~retail~~ marijuana or ~~retail~~ marijuana products grown or processed by a marijuana  
2019 establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and  
2020 maintain a seed-to-sale tracking system that tracks ~~retail~~ marijuana from either the seed or immature plant  
2021 stage until the ~~retail~~ marijuana or ~~retail~~ marijuana product is sold to a customer at a retail marijuana store *or*  
2022 *microbusiness*.

2023 **§ 4.1-614. Disposition of moneys collected by the Board.**

2024 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall

2025 be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of  
2026 salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by  
2027 § 2.2-1802.

2028 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall  
2029 be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries  
2030 and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses  
2031 incurred in the administration of this subtitle.

2032 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to  
2033 the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise  
2034 provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits  
2035 quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with  
2036 the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment  
2037 owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in  
2038 subsection A, net profits shall be appropriated in the general appropriation act as follows:

- 2039 1. ~~Forty~~ Ten percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;  
2040 2. ~~Thirty~~ Sixty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;  
2041 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall  
2042 distribute such appropriated funds to community services boards for the purpose of administering substance  
2043 use disorder prevention and treatment programs; and  
2044 4. Five percent to public health programs, including public awareness campaigns that are designed to  
2045 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the  
2046 public of other potential risks.

2047 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local  
2048 marijuana tax revenues collected under *subsection B of § 4.1-1004* and distributed pursuant to ~~§ 4.1-614~~  
2049 *4.1-1004* and all costs, expenses, and charges authorized by this section.

2050 D. All local tax revenues collected under *subsection B of § 4.1-1004* *4.1-1004* shall be paid into the state  
2051 treasury as provided in subsection A and credited to a special fund, which is hereby created on the  
2052 Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited  
2053 to the account of the locality in which they were collected. If revenues were collected from a marijuana  
2054 establishment located in more than one locality by reason of the boundary line or lines passing through the

2055 marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall  
2056 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality  
2057 to which tax revenues are attributable.

2058 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper  
2059 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged  
2060 to the account of each such locality under the special fund created by this section. If errors are made in any  
2061 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to  
2062 some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

2063 **§ 4.1-621. Certain information not to be made public.**

2064 Neither the Board nor its employees shall divulge any information regarding (i) financial reports or  
2065 records required pursuant to this subtitle; (ii) the purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
2066 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees; (iii) taxes collected from,  
2067 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system  
2068 maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to  
2069 taxes collected pursuant to this subtitle and to purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
2070 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees.

2071 Nothing contained in this section shall prohibit the use or release of such information or documents by the  
2072 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,  
2073 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall  
2074 this section prohibit the Board or its employees from compiling and disseminating to any member of the  
2075 public aggregate statistical information pertaining to (a) tax collection, as long as such information does not  
2076 reveal or disclose tax collection from any identified licensee; (b) the total amount of ~~retail~~ marijuana or ~~retail~~  
2077 marijuana products sales in the Commonwealth by marijuana ~~wholesaler~~ licensees collectively; or (c) the  
2078 total amount of purchases or sales submitted by licensees, provided that such information does not identify  
2079 the licensee.

2080 **§ 4.1-629. Local ordinances or resolutions regulating marijuana or marijuana products.**

2081 *A. No county, city, or town shall, except as provided in § 4.1-630, adopt any ordinance or resolution that*  
2082 *regulates or prohibits the cultivation, processing, possession, sale, distribution, handling, transportation,*  
2083 *consumption, use, advertising, or dispensing of marijuana or marijuana products in the Commonwealth.*

2084 *B. However, the governing body of any county, city, or town may adopt an ordinance that prohibits in its*  
2085 *local public parks, playgrounds, public streets, or any sidewalk adjoining any public street the acts described*

2086 in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty for violation thereof.

2087 C. The governing body of any county, city, or town may adopt an ordinance that decreases the minimum  
2088 distance requirements specified in § 4.1-810 (i) between retail marijuana stores and microbusinesses or (ii)  
2089 between a retail marijuana store or microbusiness and any place of religious worship; hospital; public,  
2090 private, or parochial school or institution of higher education; public or private playground or other similar  
2091 recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local  
2092 government-operated facility.

2093 D. Except as provided in this section, nothing in this subtitle shall be construed to supersede or limit the  
2094 authority of a locality to adopt and enforce local ordinances to regulate businesses licensed pursuant to this  
2095 subtitle, including local zoning and land use requirements and business license requirements.

2096 E. Except as provided in this section, all local acts, including charter provisions and ordinances of  
2097 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent  
2098 of such inconsistency.

2099 **§ 4.1-630. Local ordinances regulating time of sale of marijuana and marijuana products.**

2100 The governing body of each county may adopt ordinances effective in that portion of such county not  
2101 embraced within the corporate limits of any incorporated town, and the governing body of each city and town  
2102 may adopt ordinances effective in such city or town, fixing hours during which marijuana and marijuana  
2103 products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any  
2104 such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of  
2105 appeal pursuant to § 16.1-106.

2106 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing  
2107 body adopting it and transmitted to the Board.

2108 On and after the effective date of any ordinance adopted pursuant to this section, no marijuana store shall  
2109 sell marijuana or marijuana products during the hours limited by the ordinance.

2110 CHAPTER 7.

2111 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

2112 **§ 4.1-700. Exemptions from licensure.**

2113 The licensure requirements of this subtitle shall not apply to (i) a handler, grower, or processor of  
2114 industrial hemp that is registered with the Commissioner of Agriculture and Consumer Services pursuant to  
2115 Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (ii)  
2116 a person that has been issued a regulated hemp product retail facility registration and is acting in

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

2126     ***§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.***

2127     *The privilege of any licensee to cultivate, process, transport, deliver, sell, or test marijuana or marijuana*  
2128 *products shall extend to such licensee and to all agents or employees of such licensee for the purpose of*  
2129 *operating under such license. The licensee may be held liable for any violation of this subtitle or any Board*  
2130 *regulation committed by such agents or employees in connection with their employment.*

2131     ***§ 4.1-702. Separate license for each place of business; transfer or amendment or license; mandatory***  
2132 ***holding period for impact licenses; posting; expiration; civil penalties.***

2133     *A. Each license granted by the Board shall designate the place where the business of the licensee will be*  
2134 *carried on. A separate license shall be required for each separate place of business.*

2135     *B. No license shall be transferable from one location to another unless such transfer is conducted in*  
2136 *accordance with Board regulations. No license shall be assigned, sold, or transferred, nor shall ownership or*  
2137 *control of a license be changed, unless the licensee has received prior written approval by the Board and*  
2138 *such assignment, sale, transfer, or change is conducted in accordance with Board regulations. Any such*  
2139 *change made without approval of the Board is void and shall constitute grounds for immediate suspension or*  
2140 *revocation of all affected licenses.*

2141     *C. No impact licensee, nor any person holding a direct or indirect beneficial interest therein, shall sell,*  
2142 *assign, or transfer a controlling interest of more than 49 percent of the license to any person or entity for a*  
2143 *period of five years from the date the license is issued. The Board may, by regulation, provide for an*  
2144 *exception to this mandatory holding period for transfers made as part of an estate plan to a family member or*  
2145 *into a trust for the benefit of the licensee's immediate family.*

2146     *D. The Board may permit a licensee to amend the classification of an existing license without complying*  
2147 *with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce*

2148 *materially the privileges of an existing license.*

2149 *E. Each license shall be posted in a location conspicuous to the public at the place where the licensee*  
2150 *carries on the business for which the license is granted.*

2151 *F. The privileges conferred by any license granted by the Board shall continue until the last day of the*  
2152 *twelfth month next ensuing or the last day of the designated month and year of expiration, except the license*  
2153 *may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or*  
2154 *by operation of law, voluntary surrender, or order of the Board.*

2155 *The Board may grant licenses for one year based on the fees set by the Board pursuant to § 4.1-1002.*

2156 ***§ 4.1-703. Records of licensees; inspection of records and places of business.***

2157 *A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in*  
2158 *accordance with Board regulations of all marijuana and marijuana products it cultivated, purchased,*  
2159 *processed, sold, developed, researched, tested, or shipped.*

2160 *B. Every licensed retail marijuana store and microbusiness shall keep complete, accurate, and separate*  
2161 *records in accordance with Board regulations of all purchases of marijuana products, the prices charged*  
2162 *such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed*  
2163 *retail marijuana store and microbusiness shall also preserve all invoices showing its purchases for a period*  
2164 *as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing*  
2165 *quantities of marijuana products sold and the total price charged by it therefor. Except as otherwise provided*  
2166 *in subsections C and D, such account need not give the names or addresses of the purchasers thereof, except*  
2167 *as may be required by Board regulation.*

2168 *Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores and*  
2169 *microbusinesses may be stored off-site, provided that such records are readily retrievable and available for*  
2170 *electronic inspection by the Board or its agents at the licensed premises. However, in the case that such*  
2171 *electronic records are not readily available for electronic inspection on the licensed premises, the licensee*  
2172 *may obtain Board approval, for good cause shown, to permit the licensee to provide the records to an agent*  
2173 *of the Board within three business days or less, as determined by the Board, after a request is made to inspect*  
2174 *the records.*

2175 *C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees*  
2176 *or persons who submit marijuana or marijuana products to the marijuana testing facility.*

2177 *D. The Board and its special agents shall be allowed free access during reasonable hours to every place*  
2178 *in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting*



2179 *such place and all records, invoices, and accounts therein.*

2180 *For the purposes of a Board inspection of the records of any retail marijuana store or microbusiness*  
2181 *licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally*  
2182 *is not open to the public substantially during the same hours, "reasonable hours" means the business hours*  
2183 *when the licensee is open to the public. At any other time of day, if the retail marijuana store or*  
2184 *microbusiness licensee's records are not available for inspection, the licensee shall provide the records to an*  
2185 *agent of the Board within 24 hours after a request is made to inspect the records.*

2186 **CHAPTER 8.**

2187 **ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.**

2188 **§ 4.1-800. Marijuana cultivation facility license.**

2189 *A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize*  
2190 *the licensee to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants*  
2191 *and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature*  
2192 *marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana,*  
2193 *immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and*  
2194 *sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer*  
2195 *possession of and sell marijuana to marijuana processing facilities; and to transport marijuana, immature*  
2196 *marijuana plants, and marijuana seeds from the marijuana cultivation facility's licensed premises to another*  
2197 *licensed marijuana establishment:*

2198 *1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2199 *indoors or outdoors with a canopy that does not exceed 5,000 square feet.*

2200 *2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2201 *indoors or outdoors with a canopy that does not exceed 10,000 square feet.*

2202 *3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2203 *indoors with a canopy that does not exceed 15,000 square feet.*

2204 *4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2205 *indoors with a canopy that does not exceed 25,000 square feet.*

2206 *5. Tier V marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana*  
2207 *indoors with a canopy that does not exceed 35,000 square feet.*

2208 *In consideration of (i) market demand, (ii) utilization rates, (iii) sales data, (iv) product transfers, (v)*  
2209 *inventory data, and (vi) the volume of license applications and issuances, the Board may (a) adjust the*

2210 canopy of marijuana cultivation facilities within the square footage parameters set forth in this subsection or  
2211 (b) increase the canopy of a marijuana cultivation facility beyond the square footage parameters set forth in  
2212 this subsection if the Board determines that such increase will assist or encourage participation by impact  
2213 licensees in the industry.

2214 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track  
2215 the marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant  
2216 or the marijuana produced by the marijuana plant is transported or transferred to a marijuana testing  
2217 facility, a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail  
2218 marijuana store or is disposed of or destroyed.

2219 C. The cultivation of marijuana by a marijuana cultivation facility licensee in a secure agricultural  
2220 greenhouse shall be considered indoor cultivation and shall be permitted, provided that the secure  
2221 agricultural greenhouse is surrounded by a privacy fence that is no less than eight feet tall and is subject to  
2222 monitored ingress and egress.

2223 D. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is  
2224 cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by  
2225 the Board.

2226 **§ 4.1-801. Marijuana processing facility license.**

2227 A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to  
2228 process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana  
2229 from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and  
2230 sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities; to  
2231 transfer possession of marijuana and marijuana products to marijuana transporters; and to transport  
2232 marijuana and marijuana products from the marijuana processing facility's licensed premises to another  
2233 licensed marijuana establishment.

2234 B. All areas within the licensed premises of a marijuana processing facility in which marijuana and  
2235 marijuana products are processed shall meet all sanitary standards specified in regulations adopted by the  
2236 Board. A marijuana processing facility that processes an edible marijuana product shall comply with the  
2237 requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

2238 C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track  
2239 the marijuana it uses in its processing from the point the marijuana is delivered or transferred to the  
2240 marijuana processing facility by a marijuana transporter licensee to the point the marijuana or marijuana

2241 *products produced using the marijuana are delivered or transferred to another marijuana processing facility,*  
2242 *a retail marijuana store, a marijuana testing facility, or a marijuana transporter or are disposed of or*  
2243 *destroyed.*

2244     **§ 4.1-802. Retail marijuana store license.**

2245     *A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or*  
2246 *take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a*  
2247 *marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana*  
2248 *products, immature marijuana plants, or marijuana seeds from a marijuana transporter; to sell marijuana,*  
2249 *marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to consumers*  
2250 *on premises approved by the Board; to deliver marijuana, marijuana products, marijuana paraphernalia,*  
2251 *immature marijuana plants, or marijuana seeds only in person to consumers; to transfer possession of*  
2252 *marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to*  
2253 *marijuana delivery operators; and to transport marijuana, marijuana products, marijuana paraphernalia,*  
2254 *immature marijuana plants, and marijuana seeds from the retail marijuana store's licensed premises to*  
2255 *another retail marijuana store.*

2256     *B. Retail marijuana stores shall be operated in accordance with the following provisions:*

2257         *1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.*

2258         *2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature marijuana*  
2259 *plants, or marijuana seeds to consumers only (i) in a direct, face-to-face exchange; (ii) using a licensed*  
2260 *marijuana delivery operator; or (iii) by delivery in person to consumers at any residence, including a*  
2261 *temporary residence, or business; however, a retail marijuana store shall not deliver marijuana, marijuana*  
2262 *products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to (a) any military base,*  
2263 *child day center, school, or correctional facility; (b) the State Capitol; (c) hospital; (d) marine terminal*  
2264 *under the supervision of the Virginia Port Authority; or (e) any public gathering places, including sporting*  
2265 *events, festivals, fairs, races, concerts, and terminals of public transportation companies. A retail marijuana*  
2266 *store shall not be permitted to sell marijuana, marijuana products, marijuana paraphernalia, immature*  
2267 *marijuana plants, or marijuana seeds using:*

2268             *a. An automated dispensing or vending machine;*

2269             *b. A drive-through sales window; or*

2270             *c. An internet-based sales platform.*

2271         *3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of marijuana*

2272 *or an equivalent amount of marijuana products as determined by regulation promulgated by the Board*  
2273 *during a single transaction to one person.*

2274 4. A retail marijuana store shall not market marijuana, marijuana products, marijuana paraphernalia,  
2275 immature marijuana plants, or marijuana seeds through an internet-based sales platform operated by a third  
2276 party or fulfill any order referred by such internet-based sales platform operated by a third party.

2277 5. A retail marijuana store shall not:

2278 a. Give away any marijuana, marijuana products, immature marijuana plants, or marijuana seeds except  
2279 as otherwise permitted by this subtitle; or

2280 b. Sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to any person  
2281 when at the time of such sale he knows or has reason to believe that the person attempting to purchase the  
2282 marijuana, marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting  
2283 to purchase marijuana for someone younger than 21 years of age.

2284 6. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all  
2285 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the  
2286 marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred  
2287 to the retail marijuana store to the point at which the marijuana, marijuana products, immature marijuana  
2288 plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility,  
2289 transferred to a marijuana delivery operator, or disposed of or destroyed.

2290 7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of  
2291 Title 3.2.

2292 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of  
2293 a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a  
2294 means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a  
2295 place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of  
2296 § 40.1-11.3.

2297 D. Each retail marijuana store licensee shall prominently display and make available for dissemination to  
2298 consumers Board-approved information regarding the potential risks of marijuana use.

2299 E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees  
2300 educating them on how to discuss the potential risks of marijuana use with consumers.

2301 F. All areas within the licensed premises of a retail marijuana store in which marijuana, marijuana  
2302 products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary standards

2303 *specified in regulations adopted by the Board.*

2304     **§ 4.1-803. Microbusiness license.**

2305     *A. The Board may issue microbusiness licenses, which shall authorize the licensee to conduct any*  
2306 *activities authorized for marijuana cultivation facilities pursuant to § 4.1-800, marijuana processing*  
2307 *facilities pursuant to § 4.1-801, and retail marijuana stores pursuant to § 4.1-802, as determined by the*  
2308 *Board; however, (i) a microbusiness licensee shall process and sell only marijuana or marijuana products*  
2309 *cultivated or processed by a microbusiness licensee; (ii) a microbusiness license shall authorize the licensee*  
2310 *to cultivate marijuana indoors or outdoors with an indoor canopy that does not exceed 5,000 square feet and*  
2311 *an outdoor canopy that does not exceed 10,000 square feet, or such other comparable limits as the Board*  
2312 *may establish by regulation; and (iii) a microbusiness licensee shall not hold or control any other license and*  
2313 *may operate only one licensed premises.*

2314     *B. Unless otherwise provided by law or the Board, a microbusiness licensee shall be subject to the same*  
2315 *statutory requirements and regulations as marijuana cultivation facilities, marijuana processing facilities,*  
2316 *and retail marijuana stores, including requirements for (i) tracking all marijuana, marijuana products,*  
2317 *immature marijuana plants, or marijuana seeds in accordance with § 4.1-611 and (ii) ensuring all areas*  
2318 *within the licensed premises of the microbusiness meet all sanitary standards specified in regulations*  
2319 *adopted by the Board.*

2320     **§ 4.1-804. Marijuana transporter license.**

2321     *A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take*  
2322 *possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a*  
2323 *marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, a microbusiness, or*  
2324 *another marijuana transporter; to transfer possession of marijuana, marijuana products, immature*  
2325 *marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility,*  
2326 *retail marijuana store, microbusiness, or another marijuana transporter; and to transport marijuana,*  
2327 *marijuana products, immature marijuana plants, and marijuana seeds from one licensed establishment to*  
2328 *another.*

2329     *B. All areas within the licensed premises of a marijuana transporter in which marijuana and marijuana*  
2330 *products are stored shall meet all sanitary standards specified in regulations adopted by the Board.*

2331     *C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the*  
2332 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the*  
2333 *marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to*

2334 the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana  
2335 processor, marijuana transporter, retail marijuana store, microbusiness, or marijuana testing facility or are  
2336 disposed of or destroyed.

2337 **§ 4.1-805. Marijuana delivery operator license.**

2338 A. The Board may issue marijuana delivery operator licenses, which shall authorize the licensee to take  
2339 possession of marijuana or marijuana products from a retail marijuana store or microbusiness and deliver  
2340 such marijuana or marijuana products only in person to consumers at any residence, including a temporary  
2341 residence, or business; however, a delivery operator licensee shall not deliver marijuana or marijuana  
2342 products to (i) any military base, child day center, school, or correctional facility; (ii) the State Capitol; (iii)  
2343 hospital; (iv) marine terminal under the supervision of the Virginia Port Authority; or (v) any public  
2344 gathering places, including sporting events, festivals, fairs, races, concerts, and terminals of public  
2345 transportation companies.

2346 B. In accordance with the requirements of § 4.1-611, a marijuana delivery operator licensee shall track  
2347 the marijuana or marijuana products from the point at which the marijuana or marijuana products are  
2348 transferred to the marijuana delivery operator to the point at which the marijuana or marijuana products are  
2349 delivered or transferred to the consumer or are disposed of or destroyed.

2350 **§ 4.1-806. Marijuana testing facility license.**

2351 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,  
2352 research, transport, or test marijuana, marijuana products, and other substances.

2353 B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for (i)  
2354 that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana product for  
2355 personal use as authorized under § 4.1-1100.

2356 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana  
2357 testing facility from developing, researching, or testing substances that are not marijuana or marijuana  
2358 products for that facility or for another person.

2359 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and  
2360 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for  
2361 Standardization by a third-party accrediting body.

2362 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all  
2363 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the  
2364 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at

2365 *which the marijuana or marijuana products are disposed of or destroyed.*

2366 *F. A person that has an interest in a marijuana testing facility license shall not have any interest in a*  
2367 *licensed marijuana cultivation facility, licensed marijuana processing facility, licensed marijuana*  
2368 *transporter, licensed retail marijuana store, or licensed microbusiness.*

2369 *G. All areas within the licensed premises of a marijuana testing facility in which marijuana or marijuana*  
2370 *products are tested or stored shall meet all sanitary standards specified in regulations adopted by the Board.*

2371 **§ 4.1-807. Multiple licenses awarded to one person; limitations.**

2372 *A. As used in this section, "interest" means a direct or indirect equity ownership interest, a partial equity*  
2373 *ownership interest, or any other financial or economic interest representing at least 10 percent or more of*  
2374 *the ownership, voting power, or economic value of an entity, including being an investor, partner, member,*  
2375 *officer, or director or serving in any other management position.*

2376 *B. A person may possess or hold interest in one or any combination of the following licenses pursuant to*  
2377 *Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license,*  
2378 *tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, tier V marijuana*  
2379 *cultivation facility license, marijuana processing facility license, marijuana transporter license, marijuana*  
2380 *delivery operator license, or retail marijuana store license. Board regulations shall be drawn to ensure that*  
2381 *all licensees have an equal and meaningful opportunity to participate in the market. Moreover, except as*  
2382 *provided in subsection C, (i) no person shall be granted or hold interest in more than five total licenses, not*  
2383 *including marijuana transporter licenses, issued pursuant to this subtitle or more than one tier V marijuana*  
2384 *cultivation facility license; (ii) no person that has been granted or holds interest in a marijuana cultivation*  
2385 *facility license, marijuana processing facility license, marijuana transporter license, marijuana delivery*  
2386 *operator license, retail marijuana store license, or microbusiness license shall be issued or hold interest in a*  
2387 *marijuana testing facility license; and (iii) no person that has been granted or holds interest in a*  
2388 *microbusiness license shall be issued or hold interest in any other marijuana establishment.*

2389 **§ 4.1-808. Temporary permits required in certain instances.**

2390 *A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured*  
2391 *creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has*  
2392 *become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana*  
2393 *establishment to the same extent as the license holder for a period not to exceed 60 days or for such longer*  
2394 *period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any*  
2395 *licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be*

2396 issued in advance, conditioned on the requirements in this subsection.

2397 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any  
2398 cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary  
2399 permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of  
2400 three business days after the order of the revocation has been mailed to the permittee at either his residence  
2401 or the address given for the business in the permit application. No further notice shall be required.

2402 § 4.1-809. Licensee shall maintain possession of premises.

2403 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of  
2404 the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental  
2405 agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If  
2406 the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

2407 § 4.1-810. Conditions under which the Board shall or may refuse to grant licenses.

2408 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting of the  
2409 license would be detrimental to the interest, morals, safety, or welfare of the public or would be inconsistent  
2410 with the provisions of this subtitle.

2411 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

2412 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an  
2413 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
2414 applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
2415 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10  
2416 percent or more of the membership interest of the limited liability company:

2417 a. Is not 21 years of age or older;

2418 b. Has been convicted in any court of a felony, other than a conviction for a felony violation of  
2419 § 18.2-248.1, or any crime or offense involving moral turpitude under the laws of any state or of the United  
2420 States within seven years of the date of the application or has not completed all terms of sentencing and  
2421 probation resulting from any such conviction;

2422 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;

2423 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership  
2424 interests in the business that have not been disclosed;

2425 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business  
2426 proposed to be licensed;



- 2427 *f. Has misrepresented a material fact in applying to the Board for a license;*
- 2428 *g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or*  
2429 *governmental agency or authority, by making or filing any report, document, or tax return required by statute*  
2430 *or regulation that is fraudulent or contains a false representation of a material fact, or has willfully deceived*  
2431 *or attempted to deceive the Board, or any federal, state, or local government or governmental agency or*  
2432 *authority, by making or maintaining business records required by statute or regulation that are false or*  
2433 *fraudulent;*
- 2434 *h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his*  
2435 *application for a license is pending;*
- 2436 *i. Is a full-time or part-time employee of the Department of State Police or of a police department or*  
2437 *sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,*  
2438 *and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth;*
- 2439 *j. Has been sanctioned by the Board pursuant to regulations promulgated by the Board for a violation*  
2440 *pursuant to Chapter 16 (§ 4.1-1600 et seq.);*
- 2441 *k. Is physically unable to carry on the business for which the application for a license is filed or has been*  
2442 *adjudicated incapacitated; or*
- 2443 *l. Is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest*  
2444 *related thereto, lawfully imposed by the locality where the place to be occupied by the applicant is located, as*  
2445 *certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the*  
2446 *outstanding amount is de minimis; (ii) the applicant has pending a bona fide application for correction or*  
2447 *appeal with respect to such taxes, penalties, or interest; or (iii) the applicant has entered into a payment plan*  
2448 *approved by the same locality to settle the outstanding liability.*
- 2449 *2. The applicant is a member or employee of the Board or is a corporation or other business entity in*  
2450 *which a member or employee of the Board is a stockholder or has any other economic interest. Whenever any*  
2451 *other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such*  
2452 *a license or continuance thereof, he shall state on the application the official position he holds, and whenever*  
2453 *a corporation or other business entity in which any such official is a stockholder or has any other economic*  
2454 *interest applies for such a license, it shall state on the application the full economic interests of each such*  
2455 *official in such corporation or other business entity.*
- 2456 *3. The place to be occupied by the applicant:*
- 2457 *a. Does not conform to the requirements of the governing body of the county, city, or town in which such*

2458 place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements  
2459 established by the laws of the Commonwealth or by Board regulation;

2460 b. Is so located that granting a license and operation thereunder by the applicant would result in  
2461 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local  
2462 ordinances relating to peace and good order;

2463 c. When the applicant is applying for a retail marijuana store license or microbusiness license, is (i)  
2464 located within 1,000 feet of any place of religious worship; hospital; public, private, or parochial school or  
2465 institution of higher education; public or private playground or other similar recreational facility; child day  
2466 program; substance use disorder treatment facility; or federal, state, or local government-operated facility,  
2467 unless the locality has adopted an ordinance decreasing the minimum distance requirement between retail  
2468 marijuana stores or microbusinesses and such facilities, programs, or institutions or (ii) so located with  
2469 respect to any such facilities, programs, or institutions that the operation of such place under such license  
2470 will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities, programs,  
2471 or institutions;

2472 d. When the applicant is applying for a retail marijuana store license or microbusiness license, is so  
2473 located with respect to any residence or residential area that the operation of such place under such license  
2474 will adversely affect real property values or substantially interfere with the usual quietude and tranquility of  
2475 such residence or residential area;

2476 e. When the applicant is applying for a retail marijuana store license or microbusiness license, is located  
2477 within 1,000 feet of an existing retail marijuana store or microbusiness, unless the locality has adopted an  
2478 ordinance decreasing the distance requirement between retail marijuana stores;

2479 f. Is so constructed, arranged, or illuminated that law-enforcement officers and agents of the Board are  
2480 prevented from ready access to and reasonable observation of any room or area within which marijuana or  
2481 marijuana products are to be sold; or

2482 g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured, sold,  
2483 or used.

2484 Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or  
2485 premises until the final stage of the license approval process.

2486 4. The number of licenses existing in the locality is such that the granting of a license is detrimental to the  
2487 interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider (i) the  
2488 criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in

2489 *the community; (ii) the character of, population of, number of similar licenses in, and number of all licenses*  
2490 *existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) the effect that*  
2491 *a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this*  
2492 *subtitle; and (iv) the objections, if any, that may have been filed by a local governing body or local residents.*

2493 *5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political*  
2494 *subdivision thereof that warrants refusal by the Board to grant any license.*

2495 *6. The Board is not authorized under this subtitle to grant such license.*

2496 **§ 4.1-811. Denial of license or permit final.**

2497 *A. The denial of a license or permit by the Board shall be final unless appealed pursuant to § 4.1-1009.*

2498 **CHAPTER 9.**

2499 **ADMINISTRATION OF LICENSES; DENIAL, SUSPENSION, AND REVOCATION.**

2500 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

2501 *A. The Board may suspend or revoke any license if it has reasonable cause to believe that:*

2502 *1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an*  
2503 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the*  
2504 *licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock,*  
2505 *or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or*  
2506 *more of the membership interest of the limited liability company:*

2507 *a. Has misrepresented a material fact in applying to the Board for such license;*

2508 *b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903,*  
2509 *has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter*  
2510 *13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or*  
2511 *refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with*  
2512 *any of the conditions or restrictions of the license granted by the Board;*

2513 *c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under*  
2514 *the laws of any state or of the United States;*

2515 *d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other*  
2516 *persons have ownership interests in the business that have not been disclosed;*

2517 *e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business*  
2518 *conducted under the license granted by the Board;*

2519 *f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed*

2520 premises;

2521 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become  
2522 a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of  
2523 ill repute, or has allowed any form of illegal gambling, as defined in § 18.2-325, to take place upon such  
2524 premises;

2525 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such  
2526 licensed premises;

2527 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product;

2528 j. Is physically unable to carry on the business conducted under such license or has been adjudicated  
2529 incapacitated;

2530 k. Has possessed any illegal gambling device upon the licensed premises;

2531 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly  
2532 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled  
2533 substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms  
2534 are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the  
2535 Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired  
2536 to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug  
2537 Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of  
2538 the licensed business that facilitates the commission of any of the offenses set forth herein;

2539 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises  
2540 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of  
2541 public property immediately adjacent to the licensed premises from becoming a place where patrons of the  
2542 establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1  
2543 (§ 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.),  
2544 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  
2545 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  
2546 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  
2547 violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to  
2548 the public safety;

2549 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious  
2550 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises

2551 *immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of*  
2552 *public property immediately adjacent to the licensed premises; or*

2553 *o. Has been sanctioned by the Board pursuant to regulations promulgated by the Board for a violation*  
2554 *pursuant to Chapter 16 (§ 4.1-1600 et seq.).*

2555 *2. The place occupied by the licensee:*

2556 *a. Does not conform to the requirements of the governing body of the county, city, or town in which such*  
2557 *establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar*  
2558 *requirements established by the laws of the Commonwealth or by Board regulations;*

2559 *b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or*

2560 *c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,*  
2561 *prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are*  
2562 *regularly used or distributed. The Board may consider the general reputation in the community of such*  
2563 *establishment in addition to any other competent evidence in making such determination.*

2564 *3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of*  
2565 *the United States by prices charged or otherwise.*

2566 *4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the*  
2567 *facts been known.*

2568 *5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties*  
2569 *or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified*  
2570 *by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding*  
2571 *amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with*  
2572 *respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by*  
2573 *the same locality to settle the outstanding liability.*

2574 *6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its*  
2575 *agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed*  
2576 *premises in the Commonwealth.*

2577 *7. The Board finds that the licensee assigned, sold, or transferred a license or changed ownership or*  
2578 *control of the license without prior written approval of the Board as required pursuant to § 4.1-702.*

2579 *8. Any other cause authorized by this subtitle.*

2580 *B. The Board shall promulgate regulations regarding suspension and revocation standards and protocols.*

2581 *§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.*

2582     A. The Board may summarily suspend or restrict any license or permit without a hearing if the Board  
2583 finds that such suspension or restriction is necessary to prevent substantial danger to public health or safety.  
2584 The Board shall make decisions to summarily suspend or restrict a license or permit only during an in-person  
2585 meeting in which a quorum is present; however, if, after a good faith effort, the Board is unable to assemble a  
2586 quorum and a majority of the Board members determine that continued operation by the licensee or  
2587 permittee constitutes a substantial danger to public health or safety, the Board may summarily suspend the  
2588 license or permit during a telephone, video, or other electronic conference. Institution of proceedings for a  
2589 hearing shall be provided simultaneously with a summary suspension. The Board may summarily restrict a  
2590 license or permit without proceeding simultaneously with notification of an informal conference pursuant to  
2591 § 2.2-4019 or Board regulations. Such hearing or conference shall be held within a reasonable amount of  
2592 time after the summary suspension or restriction is issued.

2593     B. Allegations of violations of this subtitle shall be submitted to the Board in writing.

2594     C. This section shall not apply to temporary permits granted under § 4.1-808.

2595     **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

2596     The Board shall suspend or revoke any license if it finds that:

2597     1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a  
2598 gambling device, upon the premises for which the Board has granted a retail marijuana store or  
2599 microbusiness license.

2600     2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government  
2601 or governmental agency or authority, by making or filing any report, document, or tax return required by  
2602 statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact  
2603 or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or  
2604 governmental agency or authority, by making or maintaining business records required by statute or  
2605 regulation that are false or fraudulent.

2606     3. The licensee is not operational within 24 months of the issuance of the license.

2607     **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

2608     A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or  
2609 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the  
2610 Administrative Process Act (§ 2.2-4000 et seq.).

2611     Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,  
2612 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the

licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

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

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

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

2644 impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in  
2645 investigating the licensee and in holding the proceeding resulting in the violation in addition to any  
2646 suspension or civil penalty incurred.

2647 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his  
2648 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent  
2649 agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a)  
2650 admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal  
2651 under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for  
2652 operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's  
2653 parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as  
2654 applicable, or (4) proceed to a hearing.

2655 D. The Board shall, by regulation or written order:

2656 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial  
2657 hearing;

2658 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of  
2659 suspension may be accepted for a first offense occurring within three years immediately preceding the date of  
2660 the violation;

2661 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil  
2662 penalty for any retail marijuana store or microbusiness licensee where the licensee can demonstrate that it  
2663 provided to its employees marijuana seller training certified in advance by the Board;

2664 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license  
2665 and the civil charge acceptable in lieu of such suspension; and

2666 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee  
2667 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall  
2668 be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board  
2669 regulations.

2670 § 4.1-904. **Suspension or revocation; disposition of marijuana or marijuana products on hand;**  
2671 **termination.**

2672 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the  
2673 time the license of such person is suspended or revoked may be disposed of as follows:

2674 1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon



2675 *permits granted by the Board in accordance with § 4.1-808 and conditions specified by the Board; or*

2676 *2. Destroyed by the Board or its designee.*

2677 *B. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the*  
2678 *time the license of such person is suspended may be placed on administrative hold by the Board during any*  
2679 *such suspension period. For the purpose of this subsection, "administrative hold" means a status given to*  
2680 *marijuana or marijuana product by the Board that prohibits any activity with the marijuana or marijuana*  
2681 *product, including waste, sale, or transfer of the marijuana or marijuana product, until the administrative*  
2682 *hold is lifted.*

2683 *C. All marijuana or marijuana products owned by or in the possession of any person whose license is*  
2684 *suspended or revoked shall be placed on administrative hold or disposed of by such person in accordance*  
2685 *with the provisions of this section within 60 days from the date of such suspension or revocation.*

2686 *D. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose*  
2687 *licenses have been terminated other than by suspension or revocation may be disposed of in accordance with*  
2688 *subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.*

2689 *E. All marijuana or marijuana products owned by or remaining in the possession of any person described*  
2690 *in subsection A or D after the expiration of such period shall be deemed contraband and forfeited to the*  
2691 *Commonwealth in accordance with the provisions of § 4.1-1303.*

2692 *CHAPTER 10.*

2693 *ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.*

2694 *§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.*

2695 *A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an*  
2696 *application on forms provided by the Board and a statement in writing by the applicant swearing and*  
2697 *affirming that all of the information contained therein is true.*

2698 *B. Such applications, including applications for renewal, shall include any information necessary for the*  
2699 *Board to determine whether the applicant meets or continues to meet the criteria set forth in subdivision B 13*  
2700 *of § 4.1-606.*

2701 *C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by the*  
2702 *Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending*  
2703 *request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an*  
2704 *inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending*  
2705 *application or inspection, such license shall authorize the licensee to purchase marijuana, marijuana*

2706 products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle;  
2707 however, the licensee shall not sell marijuana, marijuana products, immature marijuana plants, or marijuana  
2708 seeds until an inspection is completed.

2709 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his application  
2710 with the Board on the front door of the building, place, or room where he proposes to engage in such  
2711 business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such  
2712 information as required by the Board, including a statement that any objections shall be submitted to the  
2713 Board not more than 30 days following initial posting of the notice required pursuant to this subsection.

2714 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a  
2715 newspaper published in or having a general circulation in the county, city, or town wherein such applicant  
2716 proposes to engage in such business. Such notice shall contain such information as required by the Board,  
2717 including a statement that any objections to the issuance of the license be submitted to the Board not later  
2718 than 30 days from the date of the initial newspaper publication.

2719 E. The Board shall conduct a background investigation on each license applicant, which shall include a  
2720 criminal history records search and may include a fingerprint-based national criminal history records search  
2721 and a requirement for the provision of personal descriptive information to be forwarded through the Central  
2722 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal  
2723 history record information regarding such applicant. The Central Criminal Records Exchange shall forward  
2724 the results of the criminal history background check to the Board or its designee, which shall be a  
2725 governmental entity.

2726 However, the Board may waive, for good cause shown, the requirement for a criminal history records  
2727 search and completed personal data form for officers, directors, nonmanaging members, or limited partners  
2728 of any applicant corporation, limited liability company, or limited partnership. In considering criminal  
2729 history record information, subject to the provisions of subdivision B 1 b of § 4.1-810, the Board shall not  
2730 disqualify an applicant because of a past conviction for a marijuana-related offense.

2731 F. The Board shall notify the local governing body of each license application through the town manager,  
2732 city manager, county administrator, or other designee of the locality. Local governing bodies shall submit  
2733 objections to the granting of a license within 30 days of the filing of the application.

2734 G. Each applicant shall pay the required application fee at the time the application is filed. The license  
2735 application fee shall be determined by the Board and shall be in addition to the actual cost charged to the  
2736 Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records

2737 *Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central*  
2738 *Criminal Records Exchange for each criminal history records search required by the Board. Application fees*  
2739 *shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.*

2740 *H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all*  
2741 *licensees shall file and maintain with the Board a current, accurate record of the information required by the*  
2742 *Board pursuant to subsection A and notify the Board of any changes to such information in accordance with*  
2743 *Board regulations.*

2744 *I. Every application for a permit granted pursuant to § 4.1-808 shall be on a form provided by the Board.*  
2745 *Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as*  
2746 *otherwise provided by law.*

2747 *The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for*  
2748 *applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied by*  
2749 *the number of months for which the permit is granted.*

2750 **§ 4.1-1001. Labor peace agreements.**

2751 *A. For purposes of this section:*

2752 *"Bona fide labor organization" means a labor organization, as defined by 29 U.S.C. § 402(i), that is*  
2753 *actively seeking to represent marijuana establishment employees in the Commonwealth. In determining*  
2754 *whether a labor organization is a bona fide labor organization, the Authority shall consider each of the*  
2755 *following as indicative, but not determinative, of a finding that a labor organization is a bona fide labor*  
2756 *organization:*

2757 *1. The labor organization has been recognized or certified as the bargaining representative for marijuana*  
2758 *establishment employees in the Commonwealth;*

2759 *2. The labor organization has executed current collective bargaining agreements with marijuana*  
2760 *establishment employers in the Commonwealth;*

2761 *3. The labor organization has spent resources as part of current and active attempts to organize and*  
2762 *represent marijuana establishments in the Commonwealth;*

2763 *4. The labor organization has filed the annual report required by 29 U.S.C. § 431(b) for the three years*  
2764 *immediately preceding;*

2765 *5. The labor organization has audited financial reports covering the three years immediately preceding;*

2766 *6. The existence of written bylaws or a constitution for the three years immediately preceding; and*

2767 *7. The labor organization's affiliation with any regional or national association of unions, including*

2768 *central labor councils.*

2769 *"Labor peace agreement" means an agreement between a marijuana establishment and a bona fide labor*  
2770 *organization that, at a minimum, protects the Commonwealth's proprietary interests by prohibiting the labor*  
2771 *organization from engaging in picketing, work stoppages, or boycotts against the marijuana establishment.*

2772 *B. All marijuana establishment license applicants, renewal applicants, and license holders shall have*  
2773 *entered into, maintained, and abided by the terms of a labor peace agreement. Such labor peace agreement*  
2774 *requirement is an ongoing material condition of the license, of which a violation may result in denial,*  
2775 *suspension, or revocation of the license.*

2776 *C. All initial marijuana establishment license applicants shall submit a labor peace agreement attestation*  
2777 *(LPA attestation) signed by both the applicant and the bona fide labor organization stating that the applicant*  
2778 *meets this section's requirements and has entered into, maintained, and abided by the terms of the LPA*  
2779 *attestation. All renewal applicants must submit a new LPA attestation executed within 10 days of the*  
2780 *submission date of the renewal application. An applicant's failure to submit a timely LPA attestation shall*  
2781 *result in a denial of the initial or renewal license.*

2782 *D. The Authority shall be required to determine a schedule establishing the ongoing review of the status*  
2783 *and maintenance of a labor peace agreement to assess eligibility of license holder. Upon review and findings*  
2784 *of unsatisfactory status or the insufficient maintenance of a labor peace agreement, the Authority shall*  
2785 *suspend a licensee for a marijuana establishment.*

2786 ***§ 4.1-1002. Fees for state licenses.***

2787 *A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover the*  
2788 *costs of regulating the marijuana establishment*

2789 *B. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant*  
2790 *license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall*  
2791 *be liable to state merchants' license taxation, state restaurant license taxation, and other state taxation.*

2792 *C. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in*  
2793 *person from the Board if such license is available for purchase online.*

2794 *D. The Board shall have the authority to increase state license fees. The Board shall set the amount of*  
2795 *such increases on the basis of the consumer price index and shall not increase fees more than once every*  
2796 *three years. Prior to implementing any state license fee increase, the Board shall provide notice to all*  
2797 *licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that*  
2798 *would be required for any license affected by the Board's proposed fee increases. Such notice shall be*

2799 *provided on or before November 1 in any year in which the Board has decided to increase state license fees,*  
2800 *and such increases shall become effective July 1 of the following year*

2801 ***§ 4.1-1003. Refund of state license fee.***

2802 *A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any*  
2803 *amounts collected through erroneous assessments or collected as fees on license applications that are*  
2804 *subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is*  
2805 *subsequently merged or changed into another license during the same license period. No refund shall be*  
2806 *made of any such amount, however, unless made within three years from the date of collection of the same.*

2807 *B. In any case where a licensee has changed its name or form of organization during a license period*  
2808 *without any change being made in its ownership, and because of such change is required to pay an additional*  
2809 *license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of*  
2810 *the required license fee for such period.*

2811 *C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of*  
2812 *state license fees paid pursuant to subsection A of § 4.1-1002 if the place of business designated in the license*  
2813 *is destroyed by an act of God, including a fire, earthquake, hurricane, storm, or similar natural disaster or*  
2814 *phenomenon.*

2815 *D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of*  
2816 *moneys appropriated to the Board and in the manner prescribed in § 4.1-614.*

2817 ***§ 4.1-1004. Marijuana taxes; exceptions.***

2818 *A. A tax of eight percent is levied on the sale in the Commonwealth of any marijuana or marijuana*  
2819 *products. Subject to the provisions of subsection C, the tax shall be in addition to any tax imposed under the*  
2820 *Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local*  
2821 *law. The tax shall not apply to any sale:*

2822 *1. From a marijuana establishment to another marijuana establishment.*

2823 *2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).*

2824 *3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1*  
2825 *(§ 3.2-4112 et seq.) of Title 3.2.*

2826 *4. Of a hemp product.*

2827 *B. 1. Each locality shall by ordinance levy an additional local tax on any sale taxable under subsection A*  
2828 *at a rate not less than one percent but not greater than three and one-half percent. Other than the tax*  
2829 *authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under*

2830 subsection A. The tax imposed by a surrounding county under this subsection shall not apply within the limits  
2831 of any town. Each locality shall, within 30 days, notify the Authority and any retail marijuana store and  
2832 microbusiness in such locality of the ordinance enacted pursuant to this subsection. The ordinance shall take  
2833 effect on the first day of the second month following its enactment and such rate shall be effective for at least  
2834 three years.

2835 2. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax authorized  
2836 by law on a person or property regulated under this subtitle or (ii) limit the authority of any locality to  
2837 impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under  
2838 subsection A if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b) an  
2839 annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under  
2840 subsection A in its taxable measure.

2841 C. Any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable  
2842 under subsection A shall be limited to a 1.125 percent tax, which shall be distributed as follows: (i) the  
2843 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of  
2844 § 58.1-638 and (ii) the revenue from the tax at the rate of 0.125 percent shall be distributed as provided in  
2845 subdivision F 2 of § 58.1-638. No other tax shall be levied pursuant to the Virginia Retail Sales and Use Tax  
2846 Act (§ 58.1-600 et seq.) on a sale taxable under subsection A.

2847 D. All revenues remitted to the Authority under this subsection shall be disposed of as provided in  
2848 § 4.1-614.

2849 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

2850 A. For any sale taxable under § 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes  
2851 collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable  
2852 for collecting or remitting the taxes or filing a return.

2853 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1004 shall file a  
2854 return under oath with the Authority and pay any taxes due. Upon written application by a person filing a  
2855 return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar  
2856 month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of  
2857 any interest or penalties under § 4.1-1008.

2858 C. The Authority may accept payment by any commercially acceptable means, including cash, checks,  
2859 credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this  
2860 subtitle. The Board may assess a service charge for the use of a credit or debit card.

2861 *D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or*  
2862 *automated clearinghouse transfer information and use such information for future payments of taxes,*  
2863 *interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments*  
2864 *made under this subsection. The Authority may procure the services of a third-party vendor for the secure*  
2865 *storage of information collected pursuant to this subsection.*

2866 *E. If any person liable for tax under § 4.1-1004 sells out his business or stock of goods or quits the*  
2867 *business, such person shall make a final return and payment within 15 days after the date of selling or*  
2868 *quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase*  
2869 *money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner*  
2870 *produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or*  
2871 *interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided*  
2872 *in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and*  
2873 *unpaid on account of the operation of the business by any former owner.*

2874 *F. When any person fails to timely pay the full amount of tax due under § 4.1-1004, interest at a rate*  
2875 *determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under*  
2876 *§ 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.*

2877 **§ 4.1-1006. Bonds.**

2878 *The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the*  
2879 *taxes levied under § 4.1-1004, require any person subject to such tax to file a bond, with such surety as it*  
2880 *determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due*  
2881 *from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State*  
2882 *Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State*  
2883 *Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to*  
2884 *recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above*  
2885 *the amounts due shall be returned to the person who deposited the securities.*

2886 **§ 4.1-1007. Refunds.**

2887 *A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1004*  
2888 *have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be*  
2889 *unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed*  
2890 *voluntarily, after notice to and approval by the Authority of such destruction, because the taxable items were*  
2891 *defective; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,*

2892 *the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state*  
2893 *treasury to such extent as may be proper.*

2894 *B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items*  
2895 *that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify*  
2896 *such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may*  
2897 *be proper.*

2898 *C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1004 has*  
2899 *been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of*  
2900 *tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the*  
2901 *seller shall not, however, include the tax paid upon any amount retained by the seller after such return of*  
2902 *merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting*  
2903 *his return.*

2904 ***§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.***

2905 *A. The taxes imposed under § 4.1-1004 shall be assessed within three years from the date on which such*  
2906 *taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the*  
2907 *Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the*  
2908 *collection of such taxes may be begun without assessment, at any time within six years from such date. The*  
2909 *Authority shall not examine any person's records beyond the three-year period of limitations unless it has*  
2910 *reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a*  
2911 *return and failed to do so.*

2912 *B. If any person fails to file a return as required by this section, or files a return that is false or*  
2913 *fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and*  
2914 *assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days'*  
2915 *notice requiring such person to provide any records as it may require relating to the business of such person*  
2916 *for the taxable period. The Authority may require such person or the agents and employees of such person to*  
2917 *give testimony or to answer interrogatories under oath administered by the Authority respecting taxable*  
2918 *sales, the filing of the return, and any other relevant information. If any person fails to file a required return,*  
2919 *refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority*  
2920 *may make an estimated assessment based upon the information available to it and issue a memorandum of*  
2921 *lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall*  
2922 *be deemed prima facie correct.*



2923       C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay  
2924 within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority  
2925 may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's  
2926 place of business is located or in which the person resides. If the person has no place of business or residence  
2927 within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A  
2928 copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person  
2929 owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect  
2930 of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of  
2931 Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed.  
2932 The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which  
2933 the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more  
2934 days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the  
2935 collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the  
2936 provision of such notice, notification may be provided to the person concurrent with the filing of the  
2937 memorandum of lien. Such notice shall be given to the person at his last known address.

2938       2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal  
2939 under § 4.1-1009.

2940       3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the  
2941 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or  
2942 paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the  
2943 doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory  
2944 arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It  
2945 shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the  
2946 Authority. In the event that the person against whom the distraint has been applied subsequently appeals  
2947 under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of  
2948 payment until the appeal is resolved.

2949       4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if  
2950 the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition  
2951 within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release  
2952 of the lien within seven days after such determination is made.

2953       § 4.1-1009. Appeals.

2954 Any person aggrieved by a refusal of the Board to issue any license or permit, the suspension or  
2955 revocation of a license or permit, the imposition of a fine, or any other penalty may seek review of such  
2956 action in accordance with Board regulations and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process  
2957 Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5  
2958 (§ 2.2-4025 et seq.) of the Administrative Process Act.

2959 **§ 4.1-1010. Injunction.**

2960 The Authority may apply to the appropriate circuit court for an injunction against any person who has  
2961 violated or may violate any provision of this chapter or any regulation or final decision of the Board. The  
2962 order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

2963 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or**  
2964 **older lawful; penalties.**

2965 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person  
2966 21 years of age or older may lawfully possess on his person or in any public place not more than ~~one ounce~~  
2967 *two and one-half ounces* of marijuana or an equivalent amount of marijuana product as determined by  
2968 regulation promulgated by the Board.

2969 B. Any person who possesses on his person or in any public place marijuana or marijuana products in  
2970 excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except as  
2971 otherwise provided in this section. The penalty for any violations of this section by an adult shall be  
2972 prepayable according to the procedures in § 16.1-69.40:2.

2973 C. With the exception of possession by a person in his residence or possession by a licensee in the course  
2974 of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in  
2975 any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount  
2976 of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3  
2977 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound  
2978 of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the  
2979 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10  
2980 years and a fine of not more than \$250,000, or both.

2981 D. The provisions of this section shall not apply to members of federal, state, county, city, or town  
2982 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of  
2983 dogs trained in the detection of controlled substances when possession of marijuana is necessary for the  
2984 performance of their duties.

2985      **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

2986      A. ~~Notwithstanding the provisions of subdivision (c) of § 18.2-248.1,~~ a A person 21 years of age or older  
2987 may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point  
2988 shall a household contain more than four marijuana plants. For purposes of this section, a "household" means  
2989 those individuals, whether related or not, who live in the same house or other place of residence.

2990      A person may only cultivate marijuana plants pursuant to this section at such person's main place of  
2991 residence.

2992      A violation of this subsection shall be punishable as follows:

2993      1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil  
2994 penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2  
2995 misdemeanor for a third and any subsequent offense;

2996      2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

2997      3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

2998      4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of  
2999 not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

3000      B. A person who cultivates marijuana for personal use pursuant to this section shall:

3001      1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or  
3002 other optical aids;

3003      2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3004      3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
3005 identification number, and a notation that the marijuana plant is being grown for personal use as authorized  
3006 under this section.

3007      Any person who violates this subsection is subject to a civil penalty of no more than \$25. The penalty for  
3008 any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

3009      ~~C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a~~  
3010 ~~property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture~~  
3011 ~~marijuana concentrate from home-cultivated marijuana within or on that property or land.~~

3012      **§ 4.1-1102. Illegal cultivation or processing of marijuana or marijuana products; conspiracy; penalties.**

3013      A. *Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or process*  
3014 *marijuana or marijuana products in the Commonwealth without being licensed to cultivate or process such*

3015 *marijuana or marijuana products.*

3016 *B. Any person convicted of a violation of this section is guilty of a felony punishable by imprisonment of*  
3017 *not less than five nor more than 30 years and a fine not to exceed \$10,000.*

3018 *C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or*  
3019 *more of such persons does any act to effect the object of the conspiracy, each of the parties to such*  
3020 *conspiracy is guilty of a Class 6 felony.*

3021 ***§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.***

3022 *A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who*  
3023 *are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)*  
3024 *marijuana is given away contemporaneously with another reciprocal transaction between the same parties;*  
3025 *(ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services;*  
3026 *or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.*

3027 *B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give, or*  
3028 *distribute any marijuana or marijuana products except as permitted by this chapter or provided in subsection*  
3029 *C, he is guilty of a Class 1 misdemeanor.*

3030 *In the event of a second or subsequent conviction under this section, a jail sentence of no less than 30*  
3031 *days shall be imposed and in no case be suspended.*

3032 *C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not*  
3033 *exceed two and one-half ounces or of an equivalent amount of marijuana products.*

3034 ***§ 4.1-1104. Purchase of marijuana or marijuana products from person not authorized to sell; penalty.***

3035 *If any person buys marijuana or marijuana products from any person not licensed by the Authority to sell*  
3036 *marijuana or marijuana products, he shall be guilty of a Class 1 misdemeanor.*

3037 ***§ 4.1-1105. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;***  
3038 ***penalties.***

3039 *A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give, or*  
3040 *distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or*  
3041 *has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii)*  
3042 *intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3043 *B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any*  
3044 *marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the*  
3045 *sale does not require the individual to present bona fide evidence of legal age indicating that the individual is*

21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

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

**§ 4.1-1106. Purchasing of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; forfeiture; treatment and education programs and services.**

A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1105 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person found guilty of a violation of this section is guilty of a Class 1 misdemeanor, and upon conviction (i) such person shall be ordered to pay a mandatory minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted license to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted license under the provisions of this subsection to be (a) monitored by an alcohol safety action program or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of

Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted license, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain marijuana-free during the suspension period.

C. When any adult who has not previously been convicted of underaged consumption, purchase, or possession of marijuana or marijuana products in the Commonwealth or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in subsection B. However, in all such deferred proceedings, the court shall require the accused to enter a treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. If the accused is placed on local community-based probation, the program or services shall be located in any of the judicial districts served by the local community-based probation services agency or in any judicial district ordered by the court when the placement is with an alcohol safety action program. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, (ii) certified by the Commission on VASAP, or (iii) by a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services rather than the alcohol safety action program, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

D. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document,

3108 *including a birth certificate or student identification card; or (iii) motor vehicle driver's license or other*  
3109 *document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another*  
3110 *jurisdiction, birth certificate, or student identification card of another person in order to establish a false*  
3111 *identification or false age for himself to consume, purchase, or attempt to consume or purchase marijuana or*  
3112 *marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1*  
3113 *misdemeanor.*

3114 *E. Any marijuana or marijuana product purchased or possessed in violation of this section shall be*  
3115 *deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3116 *F. Any retail marijuana store or microbusiness licensee who in good faith promptly notifies the Board or*  
3117 *any state or local law-enforcement agency of a violation or suspected violation of this section shall be*  
3118 *accorded immunity from an administrative penalty for a violation of § 4.1-1105.*

3119 **§ 4.1-1107. Purchasing marijuana or marijuana products for one to whom they may not be sold;**  
3120 **penalties; forfeiture.**

3121 *A. Any person who purchases marijuana or marijuana products for another person and at the time of such*  
3122 *purchase knows or has reason to believe that the person for whom the marijuana or marijuana products were*  
3123 *purchased was intoxicated is guilty of a Class 1 misdemeanor.*

3124 *B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of marijuana or*  
3125 *marijuana products to, another person when he knows or has reason to know that such person is younger*  
3126 *than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of*  
3127 *marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1*  
3128 *misdemeanor.*

3129 *C. Any marijuana or marijuana products purchased in violation of this section shall be deemed*  
3130 *contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3131 **§ 4.1-1113. Maintaining common nuisances; penalties.**

3132 *A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every*  
3133 *description where marijuana or marijuana products are manufactured, processed, stored, sold, dispensed,*  
3134 *given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common*  
3135 *nuisances.*

3136 *No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common*  
3137 *nuisance.*

3138 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3139 *B. In addition, after due notice and an opportunity to be heard on the part of any owner or lessor not*  
3140 *involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof of*  
3141 *guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or*  
3142 *any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of*  
3143 *not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be*  
3144 *used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the*  
3145 *same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1300.*

3146 *C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or*  
3147 *lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had*  
3148 *the right, because of such unlawful use, to enter and repossess the property.*

3149 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

3150 *Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,*  
3151 *dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its*  
3152 *original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-*  
3153 *enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,*  
3154 *processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a*  
3155 *fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5*  
3156 *felony.*

3157 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

3158 *No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any*  
3159 *agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any*  
3160 *hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold*  
3161 *and conduct such hearing.*

3162 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3163 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

3164 *No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional*  
3165 *correctional facility or any person committed to the Department of Juvenile Justice in any juvenile*  
3166 *correctional center any marijuana or marijuana products.*

3167 *Any person convicted of a violation of this section is guilty of a Class 4 felony.*

3168 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

3169 *A. No person shall separate plant resin by butane extraction or another method that utilizes a substance*



3170 *with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of*  
3171 *any residential structure.*

3172 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3173 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

3174 *No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in*  
3175 *doing, or attempting to do, any of the things prohibited by this subtitle.*

3176 *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find*  
3177 *the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the*  
3178 *defendant were solely guilty of such violation.*

3179 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

3180 *Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in the case*  
3181 *of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded*  
3182 *against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under this subtitle*  
3183 *that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is*  
3184 *observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in*  
3185 *a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to*  
3186 *§ 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender*  
3187 *Assessment and Treatment Fund established pursuant to § 18.2-251.02.*

3188 *CHAPTER 12.*

3189 *PROHIBITED PRACTICES BY LICENSEES.*

3190 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

3191 *A. No licensee or any agent or employee of such licensee shall:*

3192 *1. Cultivate, process, transport, sell, or test any marijuana or marijuana products other than that which*  
3193 *such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;*

3194 *2. Sell marijuana or marijuana products to any person other than a person to whom such license or this*  
3195 *subtitle authorizes him to sell;*

3196 *3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or this*  
3197 *subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle*  
3198 *authorizes him to cultivate, process, transport, sell, or test;*

3199 *4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this*  
3200 *subtitle;*

3201 5. Keep or allow to be kept on the licensed premises, any marijuana or marijuana products other than  
3202 that which he is authorized to cultivate, process, transport, sell, or test by such license or by this subtitle;

3203 6. Keep any marijuana or marijuana product other than in the container in which it was purchased by  
3204 him; or

3205 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

3206 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3207 **§ 4.1-1201. Prohibited acts by employees of licensees; civil penalty.**

3208 A. In addition to the provisions of § 4.1-1200, no licensee, or his agent or employee shall use or consume  
3209 any marijuana or marijuana products (i) on the licensed premises, except for certain sampling for quality  
3210 control purposes in accordance with Board regulations or (ii) while on duty and in a position that is involved  
3211 in the selling of marijuana or marijuana products to consumers.

3212 B. No licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

3213 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to  
3214 exceed \$500. Upon a second or subsequent violation of this section, (i) if the person convicted is licensee, the  
3215 Board shall revoke any license held by the licensee and (ii) if the person convicted is an agent of the licensee  
3216 or employee, the Board shall require the licensee terminate such agent or employee's employment. Any such  
3217 licensee, agent, or employee convicted of a second or subsequent violation of this section shall be prohibited  
3218 from obtaining any marijuana establishment license and employment at a marijuana establishment.

3219 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a**  
3220 **license; penalty.**

3221 Except as otherwise provided in § 4.1-807, no retail marijuana store licensee shall purchase for resale or  
3222 sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from  
3223 anyone other than a marijuana cultivation facility or marijuana processing facility.

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

3225 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by certain licensees; penalty.**

3226 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one  
3227 licensed place of business to another licensed place of business unless (i) such licensed marijuana  
3228 establishment is authorized to transfer marijuana or marijuana products from one licensed place of business  
3229 to another licensed place of business and the transfer is completed by the licensee or an employee of the  
3230 licensee or (ii) such transfer is completed by a marijuana transporter licensee.

3231 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3232      **§ 4.1-1204. *Illegal advertising materials; civil penalty.***

3233      *No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any*  
3234 *licensee selling, renting, lending, buying for, or giving to any person any advertising materials or*  
3235 *decorations under circumstances prohibited by this title or Board regulations.*

3236      *Any person found by the Board to have violated this section shall be subject to a civil penalty as*  
3237 *authorized in § 4.1-903.*

3238      **§ 4.1-1205. *Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to***  
3239 ***allow examination and inspection; penalty.***

3240      *A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1004; (ii) deliver, keep, and*  
3241 *preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)*  
3242 *allow such records, invoices, and accounts or his place of business to be examined and inspected in*  
3243 *accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1*  
3244 *misdemeanor.*

3245      *B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may*  
3246 *suspend or revoke any license of such licensee that was issued by the Authority.*

3247      **§ 4.1-1206. *Nonpayment of marijuana tax; penalties.***

3248      *A. No person shall make a sale taxable under § 4.1-1004 without paying all applicable taxes due. No*  
3249 *retail marijuana store or microbusiness licensee shall purchase, receive, transport, store, or sell any*  
3250 *marijuana or marijuana products on which such retailer has reason to know such tax has not been paid and*  
3251 *may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3252      *B. Any person who fails to file a return required for a tax due under § 4.1-1004 is subject to a civil*  
3253 *penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more*  
3254 *than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which*  
3255 *the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.*

3256      *C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of*  
3257 *any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the amount of the proper tax*  
3258 *due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall*  
3259 *be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable*  
3260 *sales to the Authority at 50 percent or less of the actual amount.*

3261      *D. If any check tendered for any amount due under § 4.1-1004 or this section is not paid by the bank on*  
3262 *which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five*

3263 *days after the Authority gives it notice that such check was returned unpaid, the person that tendered the*  
3264 *check is guilty of a violation of § 18.2-182.1.*

3265 *E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner*  
3266 *as if they were a part of the tax imposed.*

3267 **§ 4.1-1300. Enjoining nuisances.**

3268 *A. In addition to the penalties imposed by § 4.1-1113, the Board, its agents, the attorney for the*  
3269 *Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113*  
3270 *exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.*

3271 *B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge*  
3272 *or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products*  
3273 *are cultivated, processed, stored, sold, dispensed, given away, or used in such house, building, or other place*  
3274 *described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as*  
3275 *the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their*  
3276 *agents and employees, and any person connected with such house, building, or other place, and all persons*  
3277 *whomsoever from cultivating, processing, storing, selling, dispensing, giving away, or using marijuana or*  
3278 *marijuana products on such premises. The injunction shall also restrain all persons from removing any*  
3279 *marijuana or marijuana products then on such premises until the further order of the court. If the court is*  
3280 *satisfied that the material allegations of the bill are true, although the premises complained of may not then*  
3281 *be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems*  
3282 *proper. The injunction may be dissolved if a proper case is shown for dissolution.*

3283 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

3284 *A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products, all*  
3285 *marijuana or marijuana products and materials used in their manufacture or processing, and all containers*  
3286 *in which marijuana or marijuana products may be found that are kept, stored, possessed, or in any manner*  
3287 *used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308*  
3288 *that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid*  
3289 *such person in the unlawful cultivation, manufacture, processing, transportation, or sale of marijuana or*  
3290 *marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden*  
3291 *or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity*  
3292 *of any place where marijuana or marijuana products are being unlawfully manufactured or processed and*  
3293 *where such animal or vehicle is being used to aid in the unlawful manufacture or processing, shall be deemed*

3294 *contraband and shall be forfeited to the Commonwealth.*

3295 *B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1303*  
3296 *for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1*  
3297 *(§ 19.2-386.1 et seq.) of Title 19.2.*

3298 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

3299 *A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and*  
3300 *forfeited to the Commonwealth under this subtitle shall be as provided in this section.*

3301 *B. Whenever any article declared contraband under the provisions of this subtitle and required to be*  
3302 *forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the*  
3303 *enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it*  
3304 *was found. In those cases where no person is found in possession of such articles, the return shall so state*  
3305 *and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found,*  
3306 *or if there is no door, then in any conspicuous place upon the premises.*

3307 *In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove*  
3308 *such item to a place of safe storage from the place where seized, the seizing officer may destroy such item*  
3309 *only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least*  
3310 *one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction*  
3311 *to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for*  
3312 *seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining*  
3313 *after such destruction. The report shall include a statement that, from facts within their own knowledge, the*  
3314 *seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the*  
3315 *unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such*  
3316 *apparatus to a place of safe storage.*

3317 *In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture*  
3318 *of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose*  
3319 *of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other*  
3320 *violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such*  
3321 *witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The*  
3322 *report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a*  
3323 *statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever*  
3324 *that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or*

3325 *manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.*

3326 *C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10*  
3327 *days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such*  
3328 *return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept,*  
3329 *stored, or possessed in violation of this subtitle.*

3330 *At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the*  
3331 *Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn*  
3332 *them over to the Board. Any person claiming an interest in any of the articles seized may appear at the*  
3333 *hearing and file a written claim setting forth particularly the character and extent of his interest. The court*  
3334 *shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and*  
3335 *determine the validity of such claim.*

3336 *If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be*  
3337 *turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a*  
3338 *bar to any prosecution under any other provision of this subtitle.*

3339 *D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this*  
3340 *section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be*  
3341 *paid into the Literary Fund.*

3342 *If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in*  
3343 *accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be*  
3344 *impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the*  
3345 *local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be*  
3346 *made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and*  
3347 *shall be kept in the offices of the Board.*

3348 ***§ 4.1-1304. Contraband marijuana or marijuana products.***

3349 *Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the*  
3350 *Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when*  
3351 *other Board regulations applicable to such transportation have been complied with shall not be cause for*  
3352 *deeming such marijuana or marijuana products contraband.*

3353 ***§ 4.1-1305. Punishment for violations of title or regulations; bond.***

3354 *A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to*  
3355 *the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating*

3356 any Board regulation is guilty of a Class 1 misdemeanor.

3357 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is  
3358 convicted of a violation of any provision of this subtitle may require such defendant to execute bond based  
3359 upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that  
3360 the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is  
3361 required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged  
3362 by the court, provided that he shall not be confined for a period longer than six months. If any such bond  
3363 required by a court is not given during the term of the court by which conviction is had, it may be given  
3364 before any judge or before the clerk of such court.

3365 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to  
3366 continue the license of any person convicted of a violation of any provision of this subtitle.

3367 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant  
3368 has been notified that such a case is pending.

3369 § 4.1-1306. **Witness not excused from testifying because of self-incrimination.**

3370 No person shall be excused from testifying or from producing books, papers, correspondence,  
3371 memoranda, or other records for the Commonwealth as to any offense alleged to have been committed by  
3372 another under this subtitle by reason of his testimony or other evidence tending to incriminate himself, but  
3373 the testimony given and evidence so produced by such person on behalf of the Commonwealth when called  
3374 for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned  
3375 by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall  
3376 be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies.

3377 § 4.1-1307. **Previous convictions.**

3378 In any indictment, information, or warrant charging any person with a violation of any provision of this  
3379 subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such  
3380 person has been previously convicted of a violation of this subtitle.

3381 § 4.1-1308. **Label on sealed container prima facie evidence of marijuana content.**

3382 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing  
3383 marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the  
3384 container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana  
3385 content of a container, whether sealed or not.

3386 § 4.1-1309. **No recovery for marijuana or marijuana products illegally sold.**

3387 *No action to recover the price of any marijuana or marijuana products sold in contravention of this*  
3388 *subtitle may be maintained.*

3389 **§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.**

3390 A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a  
3391 synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500  
3392 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign  
3393 face upon which the advertisement is placed to the nearest edge of a building or structure located on the real  
3394 property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or  
3395 parochial school or an institution of higher education; (iii) a public or private playground or similar  
3396 recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

3397 B. However, (i) if there is no building or structure on a playground or similar recreational facility, the  
3398 measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the  
3399 property line of such playground or similar recreational facility and (ii) if a public or private school providing  
3400 grades K through 12 education is located across the road from a sign, the measurement shall be from the  
3401 nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or  
3402 structure located on such real property across the road.

3403 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a  
3404 church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or  
3405 an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a  
3406 substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances  
3407 change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the  
3408 advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in  
3409 no event more than one year from the date of the change in circumstances.

3410 D. The Board may grant a permit authorizing a variance from the distance requirements of this section  
3411 upon a finding that the placement of the advertisement on a sign will not unduly expose children to  
3412 advertising regarding marijuana, marijuana products, or any substance containing a synthetic  
3413 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

3414 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included  
3415 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its



3416 agents.

3417 F. Any outdoor signs placed on the property of a marijuana establishment shall not (i) display imagery of  
3418 marijuana or the use of marijuana or (ii) draw undue attention to the facility, but may be designed to assist  
3419 consumers to find the marijuana establishment.

3420 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising  
3421 regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or  
3422 synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned  
3423 property. Nor shall this section be construed to authorize the erection of new billboard signs containing  
3424 outdoor advertising that would be prohibited under state law or local ordinance.

3425 ~~G.~~ H. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance  
3426 containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with  
3427 the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and  
3428 regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor  
3429 directional sign regarding marijuana, marijuana products, or any substance containing a synthetic  
3430 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on  
3431 highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program  
3432 administered by the Virginia Department of Transportation or its agents.

3433 § 4.1-1403. Board to establish regulations for marijuana testing.

3434 The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise  
3435 provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling  
3436 or distributing marijuana or a marijuana product to a consumer or to another licensee, to submit a  
3437 representative sample of the marijuana or marijuana product, not to exceed an amount of the total harvest or  
3438 batch as established by the Board, to a licensed marijuana testing facility for testing to ensure that the  
3439 marijuana or marijuana product does not exceed the maximum level of allowable contamination for any  
3440 contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The  
3441 Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing  
3442 acceptable testing and research practices, including regulations relating to testing practices, methods, and  
3443 standards; quality control analysis; equipment certification and calibration; marijuana testing facility  
3444 recordkeeping, documentation, and business practices; disposal of used, unused, and waste marijuana and  
3445 marijuana products; and reporting of test results; (iii) identifying the types of contaminants that are injurious  
3446 to health for which marijuana and marijuana products shall be tested under this subtitle; and (iv)

3447 *establishing the maximum level of allowable contamination for each contaminant.*

3448     **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**  
3449 ***required destruction; random testing.***

3450     A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another  
3451 licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been  
3452 tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing  
3453 has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of  
3454 allowable contamination for any contaminant that is injurious to health and for which testing is required and  
3455 (ii) the labeling on the marijuana or marijuana product is correct.

3456     B. Mandatory testing of marijuana and marijuana products under this section shall include testing for:

3457         1. Residual solvents;

3458         2. Heavy metals;

3459         3. Microbiological contaminants;

3460         4. Mycotoxins;

3461         5. Pesticide chemical residue; and

3462         6. Active ingredient analysis.

3463     Testing shall be performed on the final form in which the marijuana or marijuana product will be  
3464 consumed.

3465     C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana  
3466 or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility,  
3467 and the results of the mandatory test.

3468     D. If the results of a mandatory test conducted pursuant to this section indicate that the tested marijuana  
3469 or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or contamination for  
3470 any contaminant that is injurious to health and for which testing is required, the marijuana testing facility  
3471 shall immediately quarantine, document, and properly destroy the marijuana or marijuana product, unless  
3472 remedial measures can bring the marijuana or marijuana product into compliance with such required health  
3473 and safety standards, and within seven days of completing the test shall notify the Board of the test results.

3474     A marijuana testing facility is not required to notify the Board of the results of any test:

3475         1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this section  
3476 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable  
3477 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing

3478 *is required;*

3479       2. *Conducted on marijuana or a marijuana product at the direction of a licensee for research and*  
3480 *development purposes only, so long as the licensee notifies the marijuana testing facility prior to the*  
3481 *performance of the test that the testing is for research and development purposes only; or*

3482       3. *Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.*

3483       E. *Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee*  
3484 *marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this*  
3485 *subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:*

3486       1. *The marijuana or marijuana product has previously undergone testing in accordance with this subtitle*  
3487 *and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing*  
3488 *demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable*  
3489 *tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing*  
3490 *is required;*

3491       2. *The mandatory testing process and the test results for the marijuana or marijuana product are*  
3492 *documented in accordance with the requirements of this subtitle and all applicable regulations adopted*  
3493 *pursuant to this subtitle;*

3494       3. *Tracking from immature marijuana plant to the point of retail sale has been maintained for the*  
3495 *marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or*  
3496 *to a consumer can be easily identified; and*

3497       4. *The marijuana or marijuana product has not undergone any further processing, manufacturing, or*  
3498 *alteration subsequent to the performance of the prior testing under subsection A.*

3499       F. *Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana*  
3500 *products whose testing samples indicate noncompliance with the health and safety standards required by this*  
3501 *subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can*  
3502 *bring the marijuana or marijuana product into compliance with such required health and safety standards.*

3503       G. *A licensee shall comply with all requests for samples of marijuana and marijuana products for the*  
3504 *purpose of random testing by a state-owned laboratory or state-approved private laboratory.*

3505       **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

3506       A. *Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be*  
3507 *labeled with the following information:*

3508       1. *Identification of the type of marijuana or marijuana product;*

3509 2. Identification of the marijuana cultivation facility and marijuana processing facility where the  
3510 marijuana or marijuana product was cultivated and processed, as applicable;

3511 3. A statement of the net weight of the marijuana or marijuana product;

3512 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,  
3513 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid  
3514 content; (ii) all major allergens; (iii) the amount of servings in the package; and (iv) the total percentage or  
3515 milligrams of tetrahydrocannabinol and other cannabinoids, in accordance with Board regulations;

3516 5. Instructions on usage, including information regarding the amount of marijuana or marijuana product  
3517 that constitutes a single serving;

3518 6. An expiration date;

3519 7. For marijuana and marijuana products, a warning statement adopted by the Board prominently  
3520 displayed in bold print and in a clear and legible fashion;

3521 8. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;

3522 9. A QR code or other means prescribed by the Board, linking to the certificate of analysis, produced by a  
3523 licensed marijuana testing facility, that states the total tetrahydrocannabinol concentration of the substance  
3524 or the total tetrahydrocannabinol concentration of the batch from which the substance originates; and

3525 10. Any other information required by Board regulations.

3526 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
3527 accordance with the provisions of this subtitle shall be packaged in the following manner:

3528 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and  
3529 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-  
3530 resistant, tamper-evident, and resealable packaging that is opaque;

3531 2. Packaging for multiserving liquid marijuana products shall include an integral measurement  
3532 component; and

3533 3. Packaging shall comply with any other requirements imposed by Board regulations.

3534 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
3535 accordance with the provisions of this subtitle shall not:

3536 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be  
3537 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying  
3538 mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a  
3539 product intended for human consumption other than the manufacturer, processor, packer, or distributor that

3540 *did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or*  
3541 *labeled in violation of a federal trademark law or regulation;*

3542 *2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;*

3543 *3. Be labeled or packaged in a manner that obscures identifying information on the label;*

3544 *4. Be labeled or packaged using a false or misleading label;*

3545 *5. Depict, model the shape of, or use a label or package that depicts or models the shape of a human,*  
3546 *animal, vehicle, or fruit; and*

3547 *6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board*  
3548 *regulations.*

3549 ***§ 4.1-1406. Other health and safety requirements for edible marijuana products and other marijuana***  
3550 ***products deemed applicable by the Authority; health and safety regulations.***

3551 *A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other*  
3552 *marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a*  
3553 *consumer:*

3554 *1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;*

3555 *2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;*

3556 *3. Shall be processed and manufactured in a manner that results in the cannabinoid content within the*  
3557 *product being homogeneous throughout the product or throughout each element of the product that has a*  
3558 *cannabinoid content;*

3559 *4. Shall be processed and manufactured in a manner that results in the amount of marijuana concentrate*  
3560 *within the product being homogeneous throughout the product or throughout each element of the product*  
3561 *that contains marijuana concentrate;*

3562 *5. Shall have a universal symbol stamped or embossed on the packaging of each product;*

3563 *6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and shall*  
3564 *not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;*

3565 *7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed*  
3566 *to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v)*  
3567 *are specifically designed to make the product appeal particularly to persons younger than 21 years of age;*  
3568 *and*

3569 *8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the*  
3570 *trademarked product is used as a component of or ingredient in the edible marijuana product and the edible*

3571 *marijuana product is not advertised or described for sale as containing the trademarked product.*

3572 *B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it*  
3573 *deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee to a*  
3574 *consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish*  
3575 *mandatory health and safety standards applicable to the cultivation of marijuana, the processing and*  
3576 *manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana products*  
3577 *sold by a licensee to a consumer. Such regulations shall address:*

3578 *1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana products*  
3579 *by licensees;*

3580 *2. Standards for the processing and manufacture of marijuana and marijuana products; and*

3581 *3. Limitations on the display of marijuana and marijuana products at retail marijuana stores and*  
3582 *microbusinesses.*

3583 ***§ 4.1-1407. Product registration requirements; approval, deviation, and modification.***

3584 *A. A marijuana cultivation facility licensee, marijuana processing facility licensee, and microbusiness*  
3585 *licensee shall register with the Board all marijuana or marijuana products it cultivates or processes.*  
3586 *Applications for marijuana or marijuana product registration shall be submitted to the Board on a form*  
3587 *prescribed by the Board.*

3588 *B. An application for marijuana or marijuana product registration shall include:*

3589 *1. The total tetrahydrocannabinol and total cannabidiol in such marijuana or marijuana product, based*  
3590 *on laboratory testing results for the marijuana or marijuana product formulation;*

3591 *2. A product name;*

3592 *3. A proposed product package; and*

3593 *4. A proposed product label, which shall not be required to contain an expiration date at the time of*  
3594 *application.*

3595 *C. The Board shall register all marijuana or marijuana products that meet testing, labeling, and*  
3596 *packaging standards after an application for registration is submitted. If the marijuana or marijuana product*  
3597 *fails to meet such standards or the application was deficient, the Board shall notify the applicant of the*  
3598 *specific reasons for such failure or deficiency.*

3599 *D. The following marijuana or marijuana product deviations from an approved marijuana or marijuana*  
3600 *product registration shall be permitted without any requirement for a new marijuana or marijuana product*  
3601 *registration or notice to the Board:*

3602 1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a  
3603 marijuana or marijuana product or dose thereof of up to 15 percent greater than or less than the  
3604 concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved  
3605 marijuana or marijuana product registration; however, for marijuana or a marijuana product with five  
3606 milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be  
3607 within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that marijuana  
3608 or marijuana product;

3609 2. A variation in packaging, provided that the packaging is substantially similar to the approved  
3610 packaging and otherwise complies with applicable packaging requirements;

3611 3. A deviation in labeling that reflects allowable deviations in total THC or total CBD or that makes a  
3612 minor text, font, design, or similar modification, provided that the labeling is substantially similar to the  
3613 approved labeling and otherwise complies with applicable labeling requirements; and

3614 4. Any other insignificant changes.

3615 F. A marijuana cultivation facility licensee, marijuana processing facility licensee, or microbusiness  
3616 license may submit a request to modify an existing marijuana or marijuana product registration in the event  
3617 of a marijuana or marijuana product deviation that is not set forth in subsection E. Upon receipt, the Board  
3618 shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or  
3619 require the licensee to provide additional information.

3620 **§ 4.1-1500. Definitions.**

3621 As used in this chapter, unless the context requires a different meaning:

3622 "CDFI" means a community development financial institution that provides credit and financial services  
3623 for underserved communities.

3624 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

3625 "Funding" means loans *and grants* made from the Fund.

3626 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

3627 ~~"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606~~  
3628 ~~to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined~~  
3629 ~~by the Board, a license to operate a marijuana establishment.~~

3630 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

3631 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
3632 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established

on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing *grants, low-interest ~~and~~ loans, zero-interest loans, and other supports and services* to ~~social equity qualified cannabis~~ *impact* licensees in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

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

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

B. The Program shall:

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

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

3. Provide technical assistance; and

4. Bring together community partners to sustain the Program.

**§ 4.1-1600. Definitions.**



3664 As used in this chapter, unless the context requires a different meaning:

3665 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of  
3666 the same chemovar of cannabis plant.

3667 "Cannabis dispensing facility" means a *dual-use* facility that (i) has obtained a permit from the Board  
3668 pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; ~~and~~ (iii) dispenses  
3669 cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient  
3670 is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; *and* (iv)  
3671 *holds and exercises all privileges to operate as a retail marijuana store pursuant to § 4.1-802 on the*  
3672 *premises of the cannabis dispensing facility..*

3673 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial  
3674 hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to  
3675 § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this  
3676 chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include  
3677 industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or  
3678 federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp  
3679 processor and acquired and formulated by a pharmaceutical processor.

3680 "Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is  
3681 produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing  
3682 facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more  
3683 than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

3684 "*Delivery agent*" means an independent contractor that transports or delivers usable cannabis, botanical  
3685 cannabis, cannabis oil, or cannabis products on behalf of a pharmaceutical processor or cannabis  
3686 dispensing facility.

3687 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or  
3688 home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health  
3689 services, private provider licensed by the Department of Behavioral Health and Developmental Services  
3690 pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant  
3691 to § 63.2-1701, or adult day center licensed pursuant to § 63.2-1701.

3692 "Dispense" means the same as that term is defined in § 54.1-3300.

3693 "*Edible cannabis product*" means a cannabis product that is intended to be ingested and is (i) formulated  
3694 with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a

3695 *pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant*  
3696 *with testing requirements.*

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

3701 *"Pharmaceutical processor" means a dual-use facility that (i) has obtained a permit from the Board*  
3702 *pursuant to § 4.1-1602 and; (ii) cultivates Cannabis plants intended ~~only~~ for the production of cannabis oil,*  
3703 *botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a*  
3704 *patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable*  
3705 *adult as defined in § 18.2-369, such patient's parent or legal guardian; and (iii) holds and exercises all*  
3706 *privileges to operate as a marijuana cultivation facility pursuant to § 4.1-800, marijuana processing facility*  
3707 *pursuant to § 4.1-801, and retail marijuana store pursuant to § 4.1-802.*

3708 *"Pharmacist" means the same as that term is defined in § 54.1-3300.*

3709 *"Pharmacy intern" means the same as that term is defined in § 54.1-3300.*

3710 *"Pharmacy technician" means the same as that term is defined in § 54.1-3300.*

3711 *"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.*

3712 *"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a*  
3713 *physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse jointly*  
3714 *licensed by the Boards of Nursing and Medicine.*

3715 *"Registered agent" means an individual designated by a patient who has been issued a written*  
3716 *certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such*  
3717 *patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.*

3718 *"Topical cannabis product" means a cannabis product that is intended to be applied topically to the skin*  
3719 *and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor*  
3720 *and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and*  
3721 *(iv) compliant with testing requirements.*

3722 *"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been*  
3723 *extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from*  
3724 *the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks;*

3725 or (iii) oil or cake made from the seeds of the plant.

3726     **§ 4.1-1601. Certification for use of cannabis for treatment.**

3727     A. A practitioner in the course of his professional practice may issue a written certification for the use of  
3728 cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease  
3729 determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment  
3730 to determine the manner and frequency of patient care and evaluation and may employ the use of  
3731 telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time  
3732 interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is  
3733 on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor  
3734 shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines  
3735 it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification  
3736 shall specifically authorize such dispensing. If not specifically included on the initial written certification,  
3737 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the  
3738 time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept,  
3739 solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any  
3740 person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia,  
3741 excluding information on products or educational materials on the benefits and risks of cannabis products.

3742     B. The written certification shall be on a form provided by the Authority. Such written certification shall  
3743 contain the name, address, and telephone number of the practitioner, the name and address of the patient  
3744 issued the written certification, the date on which the written certification was made, and the signature or  
3745 authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A  
3746 shall expire one year after its issuance unless the practitioner provides in such written certification an earlier  
3747 expiration. A written certification shall not be issued to a patient by more than one practitioner during any  
3748 given time period.

3749     C. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.)* or § 18.2-248 or 18.2-248.1  
3750 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the  
3751 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to  
3752 subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from  
3753 sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise

3754 violating the applicable standard of care for evaluating or treating medical conditions.

3755 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold  
3756 sufficient education and training to exercise appropriate professional judgment in the certification of patients;  
3757 (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or  
3758 registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical  
3759 processor or cannabis product; (iii) shall not issue a certification to himself or his family members,  
3760 employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those  
3761 approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a  
3762 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to  
3763 whom a practitioner may issue a written certification. The Board may report information to the applicable  
3764 licensing board on unusual patterns of certifications issued by a practitioner.

3765 E. No patient shall be required to physically present the written certification after the initial dispensing by  
3766 any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that  
3767 the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written  
3768 certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a  
3769 monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing  
3770 facility to the Authority.

3771 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's  
3772 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of  
3773 receiving cannabis products pursuant to a valid written certification. Such designated individual shall register  
3774 with the Board unless the individual's name listed on the patient's written certification. An individual may, on  
3775 the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's  
3776 written certification upon the patient's request. The Board may set a limit on the number of patients for whom  
3777 any individual is authorized to act as a registered agent.

3778 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a  
3779 designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or  
3780 registered by a health regulatory board and who is authorized to possess, distribute, or administer medications  
3781 may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the  
3782 patient or resident and may assist in the administration of the cannabis product to the patient or resident as

3783 necessary.

3784 H. Information obtained under the patient certification or agent registration process shall be confidential  
3785 and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700  
3786 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the  
3787 House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement  
3788 for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii)  
3789 licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug  
3790 therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or  
3791 cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only  
3792 with respect to information related to such patient.

3793 **§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

3794 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first  
3795 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the  
3796 Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's  
3797 dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general  
3798 requirements for such application. *Effective November 1, 2026, no previously issued permit shall remain*  
3799 *valid unless the pharmaceutical processor has received dual-use approval from the Board pursuant to*  
3800 *§ 4.1-1602.1.*

3801 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of  
3802 permits that the Board may issue or renew in any year is limited to one *permit in each health service area*  
3803 *established by the Board of Health, which shall govern the operations of the* pharmaceutical processor and up  
3804 to five cannabis dispensing facilities ~~for~~ *in each health service area established by the Board of Health.*  
3805 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and  
3806 cannabis dispensing facility. *In addition to the provisions of this chapter, unless otherwise provided by law or*  
3807 *regulation, a pharmaceutical processor shall hold the privileges of and be subject to all laws and regulations*  
3808 *applicable to a marijuana cultivation facility, marijuana processing facility, and retail marijuana store and a*  
3809 *cannabis dispensing facility shall hold the privileges of and be subject to all laws and regulations applicable*  
3810 *to a retail marijuana store.*

3811 C. The Board shall adopt regulations establishing health, safety, and security requirements for  
3812 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for  
3813 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment

3814 and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently  
3815 than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis  
3816 products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in  
3817 § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide  
3818 that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol,  
3819 except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of  
3820 usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors,  
3821 between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing  
3822 facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and  
3823 hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the  
3824 laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert  
3825 product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical  
3826 processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a  
3827 written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into  
3828 cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical  
3829 processor's products and operations, which shall not limit the pharmaceutical processor from the provision of  
3830 educational material to practitioners who issue written certifications and patients. The Board shall also adopt  
3831 regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely  
3832 cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste,  
3833 and (c) a process for registering cannabis products.

3834 D. The Board shall require pharmaceutical processors, after processing and before dispensing any  
3835 cannabis products, to make a sample available from each batch of cannabis product for testing by an  
3836 independent laboratory that is located in *the* Commonwealth and meets Board requirements. A valid sample  
3837 size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,  
3838 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing  
3839 or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis  
3840 oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from  
3841 each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for  
3842 analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total  
3843 tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and  
3844 microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis

3845 industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails  
3846 any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or  
3847 cannabis oil shall be subject to laboratory testing, which shall not be more stringent than initial testing prior  
3848 to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be  
3849 packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered  
3850 usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any  
3851 cannabis product with an expiration date assigned by the pharmaceutical processor of 12 months or less from  
3852 the date of the cannabis product registration approval. Stability testing required for assignment of an  
3853 expiration date longer than 12 months shall be limited to microbial testing, on a pass/fail basis, and potency  
3854 testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an  
3855 expiration date longer than 12 months from the date of the cannabis product registration approval unless  
3856 supported by stability testing.

3857 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances  
3858 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the  
3859 Board of Pharmacy in regulation.

3860 F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the  
3861 personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis  
3862 dispensing facility unless all cannabis products are contained in a vault or other similar container to which  
3863 only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are  
3864 adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have  
3865 concurrent responsibility for preventing diversion from the dispensing area.

3866 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and  
3867 production areas of the pharmaceutical processor and shall provide such information to the Board. The Board  
3868 shall direct all communications related to enforcement of requirements related to cultivation and production  
3869 of cannabis and cannabis products by the pharmaceutical processor to such designated person.

3870 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis  
3871 dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be  
3872 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau  
3873 of Investigation for the purpose of obtaining criminal history record information regarding the applicant's  
3874 material owners. The cost of fingerprinting and the criminal history record search shall be paid by the

3875 applicant. The Central Criminal Records Exchange shall forward the results of the criminal history  
3876 background check to the Board or its designee, which shall be a governmental entity.

3877 H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees  
3878 and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery  
3879 agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

3880 I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ  
3881 individuals who may have less than one year of experience (i) to perform cultivation-related duties under the  
3882 supervision of an individual who has received a degree in a field related to the cultivation of plants or a  
3883 certification recognized by the Board or who has at least one year of experience cultivating plants, (ii) to  
3884 perform extraction-related duties under the supervision of an individual who has a degree in chemistry or  
3885 pharmacology or at least one year of experience extracting chemicals from plants, (iii) to perform duties at  
3886 the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician,  
3887 and (iv) to serve as pharmacy technician trainees.

3888 J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five  
3889 cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing  
3890 of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor  
3891 permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the  
3892 pharmaceutical processor may cultivate cannabis plants. *For purposes of a pharmaceutical processor's*  
3893 *operations as a marijuana cultivation facility pursuant to § 4.1-800, the pharmaceutical processor shall only*  
3894 *cultivate cannabis indoors with a canopy that does not exceed a total of 70,000 square feet, regardless of*  
3895 *whether such canopy is utilized on the premises of the pharmaceutical processor or collectively on the*  
3896 *premises of the pharmaceutical processor and the additional cultivation location. Each cannabis dispensing*  
3897 *facility and the additional cultivation location shall be located within the same health service area as the*  
3898 *pharmaceutical processor.* Each cannabis dispensing facility and the additional cultivation location shall be  
3899 located within the same health service area as the pharmaceutical processor.

3900 K. No person who has been convicted of a felony under the laws of the Commonwealth or another  
3901 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or  
3902 cannabis dispensing facility.

3903 L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment  
3904 drug screening and regular, ongoing, random drug screening of employees.



3905 M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility  
3906 shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees  
3907 who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than  
3908 six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's  
3909 dispensing area or cannabis dispensing facility.

3910 N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor  
3911 industrial hemp extracts that (i) are grown and processed in Virginia in compliance with state or federal law,  
3912 and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract"  
3913 in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A  
3914 pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis  
3915 product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the  
3916 same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by  
3917 a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products.  
3918 The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical  
3919 processor before industrial hemp extracts may be acquired.

3920 O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily  
3921 ~~discernable~~ *discernible*, and uniform among different products and brands. Pharmaceutical processors shall  
3922 affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the  
3923 pharmaceutical processor's website, that includes:

3924 1. ~~The product name~~ *Identification of the type of cannabis product or botanical cannabis;*  
3925 2. ~~All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives,~~  
3926 ~~flavorings, sweeteners, and carrier oils~~ *Identification of the pharmaceutical processor and cannabis*  
3927 *dispensing facility where the cannabis products or botanical cannabis was cultivated and processed, as*  
3928 *applicable;*

3929 3. *A statement of the net weight of the cannabis product or botanical cannabis;*

3930 ~~The~~ 4. *In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,*  
3931 *including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid*  
3932 *content; (ii) all major allergens; (iii) the amount of servings in the package; (iv) the total percentage and or*  
3933 *milligrams of tetrahydrocannabinol and cannabidiol included in the product and the number of milligrams of*  
3934 *tetrahydrocannabinol and cannabidiol in each serving other cannabinoids, in accordance with Board*  
3935 *regulations;*

3936 4. ~~The~~5. *Instructions on usage, including information regarding the amount of cannabis product or*  
3937 *botanical cannabis* that constitutes a single serving and the amount recommended for use by the practitioner  
3938 or dispensing pharmacist;

3939 5. 7. Information regarding the product's purpose and detailed usage directions;

3940 8. *An expiration date;*

3941 6. ~~Child and safety warnings in a conspicuous font~~9. *For cannabis products or botanical cannabis, a*  
3942 *warning statement adopted by the Board prominently displayed in bold print and in a clear and legible*  
3943 *fashion;*

3944 10. *A universal symbol stamped or embossed on the packaging of any cannabis products or botanical*  
3945 *cannabis;*

3946 11. *A QR code or other means prescribed by the Board, linking to the certificate of analysis, produced by*  
3947 *an independent laboratory that is located in Commonwealth and meets Board requirements that states the*  
3948 *total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of*  
3949 *the batch from which the substance originates; and*

3950 7. 12. Such other information required by the Board.

3951 P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of  
3952 cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no  
3953 tetrahydrocannabinol.

3954 Q. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000  
3955 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any  
3956 regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall  
3957 publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the  
3958 Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the  
3959 proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone  
3960 number of the agency contact person responsible for receiving public comments. Such notice shall be made at  
3961 least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The  
3962 legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final  
3963 adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public  
3964 comments received for any regulation adopted pursuant to this section.

3965 § 4.1-1602.1. *Dual-use privileges.*

3966 *Upon application to the Board, payment of a one-time conversion fee by a pharmaceutical processor, and*

3967 *verification by the Board that the applicable requirements are met, a pharmaceutical processor and its*  
3968 *cannabis dispensing facilities may exercise dual-use privileges as set forth in this chapter.*

3969 **§ 4.1-1603. Dispensing cannabis products; report.**

3970 A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products  
3971 only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued  
3972 a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a  
3973 vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or  
3974 temporarily resides in Virginia. *A pharmaceutical processor or cannabis dispensing facility may dispense or*  
3975 *deliver cannabis products to such patient or such patient's registered agent, parent, or legal guardian at any*  
3976 *residence, including a temporary residence, or business. Notwithstanding the foregoing, a pharmaceutical*  
3977 *processor or cannabis dispensing facility shall not dispense or deliver cannabis products to (a) any military*  
3978 *base, child day center, school, or correctional facility; (b) the State Capitol; (c) marine terminal under the*  
3979 *supervision of the Virginia Port Authority; or (d) any public gathering places, including sporting events,*  
3980 *festivals, fairs, races, concerts, and terminals of public transportation companies. A companion may*  
3981 *accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior*  
3982 *to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy*  
3983 *technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and*  
3984 *maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written*  
3985 *certification that provides an exact image of the document that is clearly legible; shall view, in person or by*  
3986 *audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian;*  
3987 *and shall verify current board registration of the corresponding registered agent if applicable. Thereafter, an*  
3988 *initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated*  
3989 *caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written*  
3990 *certification, an employee or delivery agent shall view a current photo identification of the patient, registered*  
3991 *agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable.*  
3992 No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as  
3993 determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period.  
3994 A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a  
3995 cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis  
3996 dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four  
3997 ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is

3998 dispensed. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a  
3999 pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the  
4000 patient and adjust the amount dispensed accordingly.

4001 B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products  
4002 produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that  
4003 have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a  
4004 registered industrial hemp handler or processor pursuant to § 4.1-1602. A pharmaceutical processor may  
4005 begin cultivation upon being issued a permit by the Board.

4006 C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General  
4007 Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical  
4008 processors and cannabis dispensing facilities issued a permit by the Board.

4009 D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15  
4010 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis  
4011 product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such  
4012 concentration in any cannabis product on site is within such range. A pharmaceutical processor producing  
4013 cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date  
4014 of longer than 12 months.

4015 *E. All transportation or delivery of usable cannabis, botanical cannabis, cannabis oil, or cannabis*  
4016 *products, whether by an employee or delivery agent, shall comply with the provisions of this subtitle and*  
4017 *Board regulations, including those related to background checks, proof of identification, vehicle security,*  
4018 *GPS tracking, secure communications, and recordkeeping. The Board may suspend or revoke the privileges*  
4019 *of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products*  
4020 *for failure of such employee or delivery agent to comply with the provisions of this subtitle or Board*  
4021 *regulations.*

4022 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**  
4023 **operation.**

4024 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
4025 waters of ~~this the~~ Commonwealth, while under the influence of intoxicating liquor or of any narcotic or  
4026 *marijuana* or any habit-forming drugs ~~shall be~~ *is* guilty of a felony and shall be confined in a state  
4027 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying  
4028 the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both such fine

4029 and imprisonment.

4030 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
4031 waters of ~~this~~ *the* Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or  
4032 safety of others, or without due caution and circumspection and in a manner so as to endanger any person or  
4033 property, ~~shall be~~ *is* guilty of a misdemeanor.

4034 **§ 6.2-108. Financial services for licensed marijuana establishments.**

4035 A. As used in this section:

4036 “Business associate” means a person that provides goods or services to, or receives goods or services  
4037 from, a licensed marijuana establishment in connection with lawful marijuana-related activities.

4038 “Financial service” includes deposit accounts, loans, lines of credit, payment processing, funds  
4039 transmission, cash management services, and other services customarily provided by a bank or credit union  
4040 in the ordinary course of business.

4041 “Licensed” and “marijuana establishment” have the same meanings as provided in § 4.1-600.

4042 B. A bank or credit union may provide financial services to a licensed marijuana establishment or its  
4043 business associates, subject to applicable state and federal law.

4044 C. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the  
4045 officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state  
4046 law or regulation solely for providing such a financial service or for further investing any income derived  
4047 from such a financial service.

4048 D. Nothing in this section shall require a bank or credit union to provide financial services to a licensed  
4049 marijuana establishment.

4050 E. No agency or political subdivision of the Commonwealth shall penalize, prohibit, or take adverse  
4051 supervisory or regulatory action against a bank or credit union solely because the bank or credit union  
4052 provides financial services to a licensed marijuana establishment.

4053 F. A bank or credit union, and its officers, directors, and employees, shall not be subject to criminal  
4054 prosecution, civil liability, or administrative sanction under the laws of the Commonwealth solely for  
4055 providing financial services to a licensed marijuana establishment in compliance with this section.

4056 G. The legal interest of a bank or credit union in collateral for a loan or other financial service provided  
4057 to a licensed marijuana establishment shall not be subject to civil or criminal forfeiture under the laws of the  
4058 Commonwealth solely because the collateral is associated with a licensed marijuana establishment.

4059 H. Proceeds derived from a transaction involving a licensed marijuana establishment shall not be

4060 *considered proceeds of unlawful activity under the laws of the Commonwealth solely because the transaction*  
4061 *involves a licensed marijuana establishment.*

4062 *I. The protections provided by this section apply where a bank or credit union has exercised reasonable*  
4063 *due diligence to confirm that the marijuana establishment is duly licensed and operating in compliance with*  
4064 *applicable Virginia law.*

4065 *J. The protections of this section extend to financial services provided to a business associate of a licensed*  
4066 *marijuana establishment where such services are provided in connection with lawful marijuana-related*  
4067 *activities.*

4068 **§ 9.1-1101. Powers and duties of the Department.**

4069 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of  
4070 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and  
4071 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant  
4072 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any  
4073 private police department that has been designated as a criminal justice agency by the Department of  
4074 Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The  
4075 Department shall provide such services to any federal investigatory agency within available resources.

4076 B. The Department shall:

4077 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth  
4078 and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as  
4079 needed;

4080 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of  
4081 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

4082 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six  
4083 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

4084 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*  
4085 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.*  
4086 *The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider*  
4087 *the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the*  
4088 *total available THC derived from the sum of the THC and THC-A content.*

4089 C. The Department shall have the power and duty to:

4090 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes

4091 of this chapter;

4092 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
4093 duties and execution of its powers under this chapter including, but not limited to, contracts with the United  
4094 States, units of general local government or combinations thereof in Virginia or other states, and with  
4095 agencies and departments of the Commonwealth; and

4096 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

4097 D. The Director may appoint and employ a deputy director and such other personnel as are needed to  
4098 carry out the duties and responsibilities conferred by this chapter.

4099 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**  
4100 **prepayment of local ordinances.**

4101 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,  
4102 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions  
4103 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated  
4104 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local  
4105 ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is  
4106 listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance  
4107 whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2  
4108 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in  
4109 § 46.2-878.3.

4110 Such infractions shall not include:

4111 1. Indictable offenses;

4112 2. [Repealed.]

4113 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic  
4114 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,  
4115 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his  
4116 custody or control;

4117 4. Reckless driving;

4118 5. Leaving the scene of an accident;

4119 6. Driving while under suspension or revocation of driving privileges;

4120 7. Driving without being licensed to drive.

4121 8. [Repealed.]

4122 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a  
4123 magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a  
4124 plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,  
4125 prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of  
4126 guilty will have the same force and effect as a judgment of court, and that the record of conviction will be  
4127 sent to the Commissioner of the Department of Motor Vehicles.

4128 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a  
4129 schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,  
4130 designating each infraction specifically. The schedule, which may from time to time be amended,  
4131 supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule  
4132 shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at  
4133 the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted  
4134 in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this  
4135 Code or any rules or regulations promulgated thereunder.

4136 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and  
4137 fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such  
4138 ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit  
4139 may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for  
4140 prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be  
4141 forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The  
4142 schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its  
4143 application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the  
4144 discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be  
4145 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the  
4146 provisions of this Code or any rules or regulations promulgated thereunder.

4147 **§ 16.1-260. Intake; petition; investigation.**

4148 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a  
4149 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be



4150 as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of  
4151 Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing  
4152 of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the  
4153 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated  
4154 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and  
4155 motions relating to the establishment, modification, or enforcement of support on forms approved by the  
4156 Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of  
4157 social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of  
4158 Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish  
4159 paternity, motions to establish or modify support, motions to amend or review an order, and motions for a  
4160 rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except  
4161 petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of  
4162 supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the  
4163 local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of  
4164 Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
4165 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving  
4166 child support services or public assistance. No individual who is receiving support services or public  
4167 assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for  
4168 support of a child. If the petitioner is seeking or receiving child support services or public assistance, the  
4169 clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the  
4170 court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,  
4171 the intake officer shall provide the petitioner information on the possible availability of medical assistance  
4172 through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored  
4173 coverage through the Department of Medical Assistance Services.

4174 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake  
4175 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and  
4176 audio communication is used, an intake officer may exercise all powers conferred by law. All  
4177 communications and proceedings shall be conducted in the same manner as if the appearance were in person,  
4178 and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed  
4179 by the officer or person to whom sent, and returned in the same manner, and with the same force, effect,  
4180 authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

4181 Any two-way electronic video and audio communication system used for an appearance shall meet the  
4182 standards as set forth in subsection B of § 19.2-3.1.

4183 When the court service unit of any court receives a complaint alleging facts which may be sufficient to  
4184 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed  
4185 informally to make such adjustment as is practicable without the filing of a petition or may authorize a  
4186 petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause  
4187 for the issuance of the petition.

4188 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of  
4189 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or  
4190 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would  
4191 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony  
4192 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a  
4193 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded  
4194 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if  
4195 committed by an adult.

4196 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the  
4197 attendance officer has provided documentation to the intake officer that the relevant school division has  
4198 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The  
4199 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided  
4200 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of  
4201 supervision on more than two occasions for failure to comply with compulsory school attendance as provided  
4202 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three  
4203 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person  
4204 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may  
4205 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco  
4206 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and  
4207 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided  
4208 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of  
4209 developing a truancy plan using an interagency interdisciplinary team approach. The team may include  
4210 qualified personnel who are reasonably available from the appropriate department of social services,  
4211 community services board, local school division, court service unit, and other appropriate and available

4212 public and private agencies and may be the family assessment and planning team established pursuant to  
4213 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or  
4214 the truancy program, then the intake officer shall file the petition.

4215 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in  
4216 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the  
4217 juvenile, which may include restitution, the performance of community service, or on a complaint alleging  
4218 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor  
4219 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth  
4220 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the  
4221 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake  
4222 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,  
4223 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint  
4224 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to  
4225 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice  
4226 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice  
4227 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's  
4228 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

4229 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or  
4230 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,  
4231 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,  
4232 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or  
4233 other services which are required by law, (iv) family abuse has occurred and a protective order is being  
4234 sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has  
4235 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either  
4236 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake  
4237 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of  
4238 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the  
4239 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be  
4240 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.  
4241 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,  
4242 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of

4243 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective  
4244 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written  
4245 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders  
4246 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

4247 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be  
4248 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need  
4249 of supervision have utilized or attempted to utilize treatment and services available in the community and  
4250 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer  
4251 determines that the parties have not attempted to utilize available treatment or services or have not exhausted  
4252 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to  
4253 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or  
4254 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a  
4255 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

4256 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult  
4257 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a  
4258 finding that no probable cause exists, the complainant shall be notified in writing at that time of the  
4259 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall  
4260 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that  
4261 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant  
4262 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy  
4263 of the written notification upon application to the magistrate. If a magistrate determines that probable cause  
4264 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant  
4265 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition  
4266 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or  
4267 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant  
4268 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a  
4269 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his  
4270 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by  
4271 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a  
4272 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final  
4273 and the complainant shall not have a right to apply to a magistrate for a warrant.

4274 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake  
4275 officer shall accept and file a petition founded upon the warrant.

4276 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which  
4277 alleges facts of an offense which would be a felony if committed by an adult.

4278 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report  
4279 with the division superintendent of the school division in which any student who is the subject of a petition  
4280 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a  
4281 crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to  
4282 be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the  
4283 petition and the nature of the offense, if the violation involves:

4284 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
4285 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

4286 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

4287 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
4288 18.2;

4289 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

4290 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
4291 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

4292 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11 (§ 18.2-247 4.1-1100 et~~  
4293 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~

4294 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

4295 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

4296 9. Robbery pursuant to § 18.2-58;

4297 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

4298 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

4299 12. An act of violence by a mob pursuant to § 18.2-42.1;

4300 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

4301 14. A threat pursuant to § 18.2-60.

4302 The failure to provide information regarding the school in which the student who is the subject of the  
4303 petition may be enrolled shall not be grounds for refusing to file a petition.

4304 The information provided to a division superintendent pursuant to this section may be disclosed only as

4305 provided in § 16.1-305.2.

4306 H. The filing of a petition shall not be necessary:

4307 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other  
4308 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any  
4309 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the  
4310 court may proceed on a summons issued by the officer investigating the violation in the same manner as  
4311 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene  
4312 of the accident or at any other location where a juvenile who is involved in such an accident may be located,  
4313 proceed on a summons in lieu of filing a petition.

4314 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of  
4315 § 16.1-241.

4316 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any  
4317 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal  
4318 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal  
4319 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal  
4320 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner  
4321 provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of  
4322 § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or  
4323 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or  
4324 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize  
4325 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the  
4326 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.  
4327 When a violation of § 4.1-305 *or* 4.1-1106 is charged by summons, the juvenile shall be entitled to have the  
4328 charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that  
4329 such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such  
4330 summons alleging a violation of § 4.1-305 *or* 4.1-1106 is served, the officer shall also serve upon the juvenile  
4331 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and  
4332 make return of such service to the court. If the officer fails to make such service or return, the court shall  
4333 dismiss the summons without prejudice.

4334 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would  
4335 be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer

4336 proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same  
4337 manner as provided by law for adults provided that notice of the summons to appear is mailed by the  
4338 investigating officer within five days of the issuance of the summons to a parent or legal guardian of the  
4339 juvenile.

4340 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the  
4341 jurisdiction granted it in § 16.1-241.

4342 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**  
4343 **statement.**

4344 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case  
4345 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of  
4346 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew  
4347 violations, the court before final disposition thereof may require an investigation, which (i) shall include a  
4348 drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a  
4349 social history of the physical, mental, and social conditions, including an assessment of any affiliation with a  
4350 criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances  
4351 surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an  
4352 act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a  
4353 violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2  
4354 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a*  
4355 *violation of § 4.1-1106*, the court shall order the juvenile to undergo a drug screening. If the drug screening  
4356 indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by  
4357 a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile  
4358 Justice or by a locally operated court services unit or by an individual employed by or currently under  
4359 contract to such agencies and who is specifically trained to conduct such assessments under the supervision  
4360 of such counselor.

4361 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim,  
4362 or may in its discretion, require the preparation of a victim impact statement in accordance with the  
4363 provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical,  
4364 psychological, or economic injury as a result of the violation of law.

4365 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**  
4366 **truancy.**

4367 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time  
4368 of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of  
4369 any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation  
4370 of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a misdemeanor  
4371 violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250 *or a violation*  
4372 *of § 4.1-1106*; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or  
4373 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of  
4374 § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town;  
4375 (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or  
4376 (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as  
4377 provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty  
4378 authorized by this section, if the offense involves a violation designated under clause (i) and the child was  
4379 transporting a person 17 years of age or younger, the court shall impose the additional fine and order  
4380 community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i),  
4381 (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches  
4382 the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile  
4383 reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a  
4384 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six  
4385 months unless the offense is committed by a child under the age of 16 years and three months, in which case  
4386 the child's ability to apply for a driver's license shall be delayed for a period of six months following the date  
4387 he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v)  
4388 or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a  
4389 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the  
4390 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the  
4391 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions  
4392 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of  
4393 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession  
4394 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding  
4395 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in  
4396 which case the denial of driving privileges shall be for a period of two years unless the offense is committed  
4397 by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's



4398 license shall be delayed for a period of two years following the date he reaches the age of 16 and three  
4399 months.

4400 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and  
4401 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving  
4402 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16  
4403 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not  
4404 less than 30 days following the date he reaches the age of 16 and three months.

4405 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a  
4406 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability  
4407 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three  
4408 months, as may be appropriate.

4409 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of  
4410 § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until  
4411 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or  
4412 until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

4413 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as  
4414 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the  
4415 physical custody of the court during any period of license denial.

4416 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which  
4417 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was  
4418 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.  
4419 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record  
4420 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other  
4421 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding  
4422 results in an adjudication of guilt pursuant to subsection F.

4423 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's  
4424 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the  
4425 order of denial under subsection E.

4426 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of  
4427 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol

4428 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set  
4429 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)  
4430 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such  
4431 terms and conditions as the court may set forth.

4432 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted  
4433 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the  
4434 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection  
4435 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to  
4436 and from home and school when school-provided transportation is available and no restricted license shall be  
4437 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,  
4438 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding  
4439 by the court of failure to comply with school attendance and meeting requirements as provided in subsection  
4440 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection  
4441 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be  
4442 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information  
4443 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under  
4444 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any  
4445 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

4446 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any  
4447 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.  
4448 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one  
4449 year after its issuance.

4450 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,  
4451 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has  
4452 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if  
4453 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge  
4454 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be  
4455 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying  
4456 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in  
4457 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)  
4458 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of

4459 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second  
4460 violation under clause (v), (vi), or (vii) of subsection A, the charge shall not be dismissed pursuant to this  
4461 subsection but shall be disposed of under § 16.1-278.8.

4462     **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI," "imitation**  
4463 **controlled substance," and "counterfeit controlled substance" in Title 18.2.**

4464     A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title  
4465 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et  
4466 seq.).

4467     B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled  
4468 substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ *that* is not a controlled  
4469 substance subject to abuse, and:

4470         1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging or by  
4471 representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other  
4472 form whatsoever will be mistaken for a controlled substance unless such substance was introduced into  
4473 commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to  
4474 imitate; or

4475         2. Which by express or implied representations purports to act like a controlled substance as a stimulant or  
4476 depressant of the central nervous system and which is not commonly used or recognized for use in that  
4477 particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,  
4478 promoted, or sold as permitted by the U.S. Food and Drug Administration.

4479     C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
4480 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
4481 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes  
4482 rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the  
4483 drug and its appearance in overall finished dosage form, promotional materials or representations, oral or  
4484 written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the  
4485 public.

4486     D. The term "marijuana" ~~when used in this article means any part of a plant of the genus Cannabis,~~  
4487 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~  
4488 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana"~~

4489 does not include (i) the mature stalks of such plant; fiber produced from such stalk; oil or cake made from the  
4490 seed of such plant; unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus  
4491 Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to  
4492 subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a  
4493 person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.  
4494 Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in  
4495 § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such  
4496 isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the  
4497 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443 *The terms marijuana and marijuana products*  
4498 *when used in this article mean the same as defined in § 4.1-600.*

4499 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,  
4500 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade  
4501 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,  
4502 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so  
4503 manufacture, process, pack or distribute such drug.

4504 F. The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol,  
4505 including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of  
4506 isomers is possible within the specific chemical designation and any preparation, mixture, or substance  
4507 containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this  
4508 definition, "isomer" means the optical, position, and geometric isomers.

4509 G. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary  
4510 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of  
4511 tetrahydrocannabinolic acid.

4512 H. The Department of Forensic Science shall determine the proper methods for detecting the  
4513 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100 et  
4514 seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or other  
4515 equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into  
4516 tetrahydrocannabinol.

4517 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture,**  
4518 **sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;**

**4519 penalties.**

4520 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ *is* unlawful for any  
4521 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a  
4522 controlled substance or an imitation controlled substance.

4523 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation  
4524 controlled substance, the court may consider, in addition to all other relevant evidence, whether any  
4525 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever  
4526 included an exchange of or a demand for money or other property as consideration, and, if so, whether the  
4527 amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet  
4528 or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule,  
4529 tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter  
4530 substances of like chemical composition sell.

4531 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled  
4532 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more  
4533 than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is  
4534 alleged in the warrant, indictment, or information that the person has been before convicted of such an  
4535 offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if  
4536 committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in  
4537 the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing  
4538 the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of  
4539 which shall be a mandatory minimum term of imprisonment to be served consecutively with any other  
4540 sentence, and he shall be fined not more than \$500,000.

4541 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the  
4542 warrant, indictment or information that he has been before convicted of two or more such offenses or of  
4543 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the  
4544 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
4545 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10  
4546 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
4547 with any other sentence, and he shall be fined not more than \$500,000.

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

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

2. 500 grams or more of a mixture or substance containing a detectable amount of:

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

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

c. Cocaine base;

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

e. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions 2a through 2d; or

3. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

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

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

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

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

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

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

4577 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,  
4578 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable  
4579 amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned  
4580 for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of  
4581 such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be  
4582 sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than  
4583 \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged  
4584 in the warrant, indictment, or information that he has been previously convicted of two or more such offenses  
4585 or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in  
4586 the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
4587 indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10  
4588 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
4589 with any other sentence and he shall be fined not more than \$500,000.

4590 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be  
4591 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
4592 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine  
4593 production. This restitution shall include the person's or his estate's estimated or actual expenses associated  
4594 with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or  
4595 otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or  
4596 in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup  
4597 Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup,  
4598 removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum  
4599 of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or  
4600 repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant  
4601 to § 32.1-11.7.

4602 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled  
4603 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate  
4604 in a community correctional facility, local correctional facility or state correctional facility as defined in  
4605 § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any  
4606 consideration received or expected nor to induce the recipient or intended recipient of the controlled

4607 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty of a  
4608 Class 5 felony.

4609 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription  
4610 of a person authorized under this article to issue the same, which prescription has not been received in writing  
4611 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the  
4612 pharmacist within one week of the time of filling the same, or if such violation consists of a request by such  
4613 authorized person for the filling by a pharmacist of a prescription which has not been received in writing by  
4614 the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the  
4615 pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

4616 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III  
4617 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ is  
4618 guilty of a Class 5 felony.

4619 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV  
4620 ~~shall be~~ is guilty of a Class 6 felony.

4621 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a  
4622 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,  
4623 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate  
4624 in a community correctional facility, local correctional facility or state correctional facility as defined in  
4625 § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any  
4626 consideration received or expected nor to induce the recipient or intended recipient of the controlled  
4627 substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1  
4628 misdemeanor.

4629 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or  
4630 Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance classified in  
4631 Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

4632 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~ that  
4633 imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6 felony. In  
4634 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the  
4635 defendant believed the imitation controlled substance to actually be a controlled substance.

4636 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,



4637 give or distribute the following:

4638 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

4639 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

4640 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4641 derivatives of ecgonine or their salts have been removed;

4642 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4643 c. Cocaine base;

4644 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4645 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
4646 referred to in subdivisions a through d; *or*

4647 3. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~

4648 ~~4. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more~~  
4649 ~~of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of~~  
4650 ~~its isomers~~ *shall be is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment*  
4651 *for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum*  
4652 *sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an*  
4653 *offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of*  
4654 *violence or possess a firearm or other dangerous weapon in connection with the offense or induce another*  
4655 *participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any*  
4656 *person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was*  
4657 *not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later*  
4658 *than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all*  
4659 *information and evidence the person has concerning the offense or offenses that were part of the same course*  
4660 *of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other*  
4661 *information to provide or that the Commonwealth already is aware of the information shall not preclude a*  
4662 *determination by the court that the defendant has complied with this requirement.*

4663 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of  
4664 a continuing criminal enterprise ~~shall be~~ *is guilty of a felony if (i) the enterprise received at least \$100,000*  
4665 *but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,*  
4666 *importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,*  
4667 *isomers, or salts of isomers thereof* ~~or marijuana~~ *or (ii) the person engaged in the enterprise to manufacture,*

4668 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any  
4669 12-month period of its existence:

4670 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable  
4671 amount of heroin;

4672 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable  
4673 amount of:

4674 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4675 derivatives of ecgonine or their salts have been removed;

4676 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4677 c. Cocaine base;

4678 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4679 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
4680 referred to in subdivisions a through d; *or*

4681 3. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~  
4682 ~~amount of marijuana; or~~

4683 4. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its  
4684 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable  
4685 amount of methamphetamine, its salts, isomers, or salts of its isomers.

4686 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
4687 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

4688 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of  
4689 a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any  
4690 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or  
4691 ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or  
4692 (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to  
4693 manufacture, sell, give or distribute the following during any 12-month period of its existence:

4694 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

4695 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

4696 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4697 derivatives of ecgonine or their salts have been removed;

4698 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
4699 c. Cocaine base;  
4700 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
4701 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
4702 referred to in subdivisions a through d; *or*  
4703 3. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~  
4704 4. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
4705 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
4706 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and  
4707 imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be  
4708 made to run consecutively with any other sentence. However, the court may impose a mandatory minimum  
4709 sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement  
4710 authorities.

4711 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any  
4712 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a  
4713 continuing series of violations of this section which are undertaken by such person in concert with five or  
4714 more other persons with respect to whom such person occupies a position of organizer, a supervisory  
4715 position, or any other position of management, and from which such person obtains substantial income or  
4716 resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance  
4717 classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street  
4718 gang as defined in § 18.2-46.1.

4719 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two  
4720 or more different substances listed below with the intent to manufacture methamphetamine, methcathinone,  
4721 or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether,  
4722 hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine,  
4723 phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal,  
4724 sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate,  
4725 chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

4726 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product  
4727 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts  
4728 of optical isomers.

4729 § 18.2-248.1. Penalties for sale, gift, distribution or possession with intent to sell, give, or distribute  
4730 marijuana.

4731 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) *or in the Cannabis Control Act*  
4732 *(§ 4.1-600 et seq.)*, it is unlawful for any person to *process*, sell, give, distribute, or possess with intent to  
4733 *process*, sell, give, or distribute marijuana *or marijuana products*.

4734 ~~(a)~~ Any person who violates this section with respect to:

4735 ~~(1) Not more than one ounce of marijuana is guilty of a Class 1 misdemeanor;~~

4736 ~~(2) (a) More than one ~~ounce~~ pound but not more than five pounds of marijuana *or marijuana products*~~  
4737 *that are not packaged in accordance with the provisions of § 4.1-1405* is guilty of a Class 5 felony;

4738 ~~(3) (b) More than five pounds of marijuana *or marijuana products that are not packaged in accordance*~~  
4739 *with the provisions of § 4.1-1405* is guilty of a felony punishable by imprisonment of not less than five nor  
4740 more than 30 years.

4741 ~~There shall be a rebuttable presumption that a person who possesses no more than one ounce of marijuana~~  
4742 ~~possesses it for personal use.~~

4743 If such person proves that he *processed*, gave, distributed, or possessed with intent to give or distribute  
4744 marijuana *or marijuana products* only as an accommodation to another individual and not with intent to  
4745 profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
4746 the marijuana *or marijuana products* to use or become addicted to or dependent upon such marijuana *or*  
4747 *marijuana products*, he is guilty of a Class 1 misdemeanor.

4748 ~~(b) Any person who gives, distributes, or possesses marijuana as an accommodation and not with intent to~~  
4749 ~~profit thereby, to an inmate of a state or local correctional facility, as defined in § 53.1-1, or in the custody of~~  
4750 ~~an employee thereof is guilty of a Class 4 felony.~~

4751 ~~(c) Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture such~~  
4752 ~~substance, not for his own use is guilty of a felony punishable by imprisonment of not less than five nor more~~  
4753 ~~than 30 years and a fine not to exceed \$10,000.~~

4754 ~~(d) When a person is convicted of a third or subsequent felony offense under this section and it is alleged~~  
4755 ~~in the warrant, indictment or information that he has been before convicted of two or more felony offenses~~  
4756 ~~under this section or of substantially similar offenses in any other jurisdiction which offenses would be~~  
4757 ~~felonies if committed in the Commonwealth, and such prior convictions occurred before the date of the~~  
4758 ~~offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or~~  
4759 ~~for any period not less than five years, five years of which shall be a mandatory minimum term of~~

4760 imprisonment to be served consecutively with any other sentence and he shall be fined not more than  
4761 \$500,000.

4762 § 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance  
4763 abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;  
4764 violations; discharge.

4765 Whenever any person who has not previously been convicted of any criminal offense under this article or  
4766 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
4767 depressant, or hallucinogenic drugs, ~~with the exception of any misdemeanor conviction for possession of~~  
4768 ~~marijuana~~, or has not previously had a proceeding against him for violation of such an offense dismissed as  
4769 provided in this section, ~~except a dismissal of a misdemeanor offense for possession of marijuana~~, pleads  
4770 guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,  
4771 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of  
4772 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon  
4773 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether  
4774 the clerk of court has been provided with the fingerprint identification information or fingerprints of the  
4775 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints  
4776 and photograph of the person be taken by a law-enforcement officer.

4777 As a term or condition, the court shall require the accused to undergo a substance abuse assessment  
4778 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or  
4779 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based  
4780 upon consideration of the substance abuse assessment. The program or services may be located in the judicial  
4781 district in which the charge is brought or in any other judicial district as the court may provide. The services  
4782 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental  
4783 Services, by a similar program which is made available through the Department of Corrections, (ii) a local  
4784 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program  
4785 certified by the Commission on VASAP.

4786 The court shall require the person entering such program under the provisions of this section to pay all or  
4787 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,  
4788 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

4789 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or  
4790 education program or services, (b) to remain drug and alcohol free during the period of probation and submit

4791 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and  
4792 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a  
4793 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a  
4794 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel  
4795 of any program or agency approved by the supervising probation agency.

4796 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
4797 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of  
4798 court has been provided with the fingerprint identification information or fingerprints of such person, the  
4799 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this  
4800 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section  
4801 in subsequent proceedings.

4802 Notwithstanding any other provision of this section, whenever a court places an individual on probation  
4803 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of  
4804 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has  
4805 had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

4806 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual**  
4807 **violence.**

4808 A. For purposes of this section:

4809 "Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws  
4810 pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

4811 "Overdose" means a life-threatening condition resulting from the consumption or use of a controlled  
4812 substance, alcohol, or any combination of such substances.

4813 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
4814 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
4815 pursuant to § ~~4.1-1105.1~~ 4.1-1106, involuntary manslaughter pursuant to § 18.2-36.3, possession of a  
4816 controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of  
4817 controlled paraphernalia pursuant to § 54.1-3466 if:

4818 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is  
4819 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;  
4820 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical

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

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

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

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

C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1106, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

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

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

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

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

D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical

attention for himself or another individual, to a person experiencing an overdose or who has experienced an act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a person who renders emergency care or assistance to an individual experiencing an overdose or who has experienced an act of sexual violence while another person seeks or obtains emergency medical attention during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

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

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

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

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

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

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

B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law



4881 shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247*, 18.2-248, 18.2-248.01,  
4882 18.2-248.1, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing  
4883 tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol  
4884 is necessary in the performance of his duties.

4885 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

4886 A. Except as authorized in the Drug Control Act, ~~Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1~~, it ~~shall be~~  
4887 ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug  
4888 classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of age who is at least three  
4889 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug  
4890 classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this provision shall upon conviction  
4891 be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined  
4892 not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a  
4893 Schedule I or II controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum  
4894 sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one~~  
4895 ~~ounce of marijuana shall be a mandatory minimum sentence.~~

4896 B. It ~~shall be~~ ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)  
4897 distribute any imitation controlled substance to a person under 18 years of age who is at least three years his  
4898 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled  
4899 substance. Any person violating this provision ~~shall be~~ ~~is~~ guilty of a Class 6 felony.

4900 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**  
4901 **administering controlled substances to minors; penalty.**

4902 It ~~shall be~~ ~~is~~ a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a  
4903 minor any book, pamphlet, periodical, or other printed matter ~~which~~ ~~that~~ he knows advertises for sale any  
4904 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering,  
4905 preparing, or growing ~~marijuana~~ ~~or~~ a controlled substance.

4906 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

4907 A. It ~~shall be~~ ~~is~~ unlawful for any person to manufacture, sell, or distribute or possess with intent to sell,  
4908 give, or distribute any controlled substance; ~~or~~ imitation controlled substance; ~~or marijuana~~ while:

4909 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary  
4910 school, any institution of higher education, or any clearly marked licensed child day center as defined in  
4911 § 22.1-289.02;

4912 2. Upon public property or any property open to public use within 1,000 feet of the property described in  
4913 subdivision 1;

4914 3. On any school bus as defined in § 46.2-100;

4915 4. Upon a designated school bus stop, or upon either public property or any property open to public use  
4916 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be  
4917 picked up and transported to or are being dropped off from school or a school-sponsored activity;

4918 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated  
4919 recreation or community center facility or any public library; or

4920 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property  
4921 open to public use within 1,000 feet of such ~~an institution facility~~. It is a violation of the provisions of this  
4922 section if the person possessed the controlled substance; ~~or~~ imitation controlled substance; ~~or marijuana~~ on  
4923 the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or  
4924 distribute the controlled substance; ~~or~~ imitation controlled substance; ~~or marijuana~~. Nothing in this section  
4925 shall prohibit the authorized distribution of controlled substances.

4926 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the  
4927 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more  
4928 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an  
4929 offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act  
4930 (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum  
4931 term of imprisonment of one year to be served consecutively with any other sentence. However, if such  
4932 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another  
4933 individual and not with intent to profit thereby from any consideration received or expected nor to induce the  
4934 recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or  
4935 dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

4936 C. If a person commits an act violating the provisions of this section, and the same act also violates  
4937 another provision of law that provides for penalties greater than those provided for by this section, then  
4938 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or  
4939 the imposition of any penalties provided for thereby.

4940 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

4941 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,

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

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

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

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

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

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

C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to another person.

D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,

4973 physician, dentist, veterinarian, or other authorized person.

4974 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false or forged  
4975 written order.

4976 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle  
4977 containing any controlled substance.

4978 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or  
4979 of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such  
4980 drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of  
4981 any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and  
4982 who are acting in the course of their employment; provided that such manufacturer is licensed under the  
4983 provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical  
4984 manufacturer, its agents and duly authorized representatives file with the Board such information as the  
4985 Board may deem appropriate.

4986 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein  
4987 ~~shall be~~ is guilty of a Class 6 felony.

4988 Whenever any person who has not previously been convicted of any offense under this article or under  
4989 any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant,  
4990 or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense  
4991 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for  
4992 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court  
4993 may place him on probation upon terms and conditions.

4994 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or  
4995 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the  
4996 accused. This program may be located in the judicial circuit in which the charge is brought or in any other  
4997 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by  
4998 the Department of Behavioral Health and Developmental Services. The court shall require the person entering  
4999 such program under the provisions of this section to pay all or part of the costs of the program, including the  
5000 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the  
5001 person is determined by the court to be indigent.

5002 As a condition of supervised probation, the court shall require the accused to remain drug free during the

5003 period of probation and submit to such tests during that period as may be necessary and appropriate to  
5004 determine if the accused is drug free. Such testing may be conducted by the personnel of any screening,  
5005 evaluation, and education program to which the person is referred or by the supervising agency.

5006 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the  
5007 original arresting law-enforcement agency to submit to fingerprinting.

5008 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and  
5009 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find  
5010 the defendant guilty of a Class 1 misdemeanor.

5011 **§ 18.2-265.1. Definition.**

5012 As used in this article, "drug paraphernalia" means all equipment, products, and materials of any kind  
5013 which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for  
5014 use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,  
5015 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,  
5016 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a  
5017 controlled substance. "Drug paraphernalia" includes:

5018 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting  
5019 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be  
5020 derived;

5021 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,  
5022 processing, or preparing ~~marijuana~~ or controlled substances;

5023 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or  
5024 any species of plant ~~which~~ that is a controlled substance;

5025 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or  
5026 effectiveness of ~~marijuana~~ or controlled substances, other than drug checking products used to determine the  
5027 presence or concentration of a contaminant that can cause physical harm or death;

5028 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or  
5029 controlled substances;

5030 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or  
5031 designed for use in cutting controlled substances;

5032 7. ~~Separation gins and sifters~~ intended for use or designed for use in removing twigs and seeds from, or in

5033 otherwise cleaning or refining, marijuana;

5034 ~~8-~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in  
5035 compounding controlled substances;

5036 ~~9-~~ 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging  
5037 small quantities of ~~marijuana~~ or controlled substances;

5038 ~~10-~~ 9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~  
5039 or controlled substances;

5040 ~~11-~~ 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in  
5041 parenterally injecting controlled substances into the human body;

5042 ~~12-~~ 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing  
5043 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

5044 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
5045 screens, ~~hashish heads~~, or punctured metal bowls;

5046 b. Water pipes;

5047 c. Carburetion tubes and devices;

5048 d. Smoking and carburetion masks;

5049 e. Roach clips, meaning objects used to hold burning material; ~~such as a marijuana cigarette~~, that has  
5050 become too small or too short to be held in the hand;

5051 f. Miniature cocaine spoons, and cocaine vials;

5052 g. Chamber pipes;

5053 h. Carburetor pipes;

5054 i. Electric pipes;

5055 j. Air-driven pipes;

5056 k. Chillums;

5057 l. Bongs;

5058 m. Ice pipes or chillers.

5059 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

5060 In determining whether an object is drug paraphernalia, the court may consider, in addition to all other  
5061 relevant evidence, the following:

5062 1. Constitutionally admissible statements by the accused concerning the use of the object;

5063 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to  
5064 the accused;

5065 3. Instructions, oral or written, provided with the object concerning its use;

5066 4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;

5067 5. National and local advertising within the actual knowledge of the accused concerning its use;

5068 6. The manner in which the object is displayed for sale;

5069 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a  
5070 licensed distributor or dealer of tobacco products;

5071 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business  
5072 enterprise;

5073 9. The existence and scope of legitimate uses for the object in the community;

5074 10. Expert testimony concerning its use or the purpose for which it was designed; *and*

5075 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should  
5076 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in  
5077 control of the object, as to a direct violation of this article shall not prevent a finding that the object is  
5078 intended for use or designed for use as drug paraphernalia.

5079 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

5080 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under  
5081 circumstances where one reasonably should know, that it is either designed for use or intended by such  
5082 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
5083 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or  
5084 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1  
5085 misdemeanor.

5086 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug  
5087 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6  
5088 felony.

5089 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is*  
5090 guilty of a Class 1 misdemeanor.

5091 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

5092 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation

5093 of § 18.2-248 or subdivision (a) 2 or 3 of § 18.2-248.1, has in his possession a firearm or knife and is wearing  
5094 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ is guilty of a Class 4  
5095 felony.

5096     **§ 18.2-308.012. Prohibited conduct.**

5097     A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,  
5098 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction  
5099 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under  
5100 the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of  
5101 § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of  
5102 § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall  
5103 revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person  
5104 convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a  
5105 period of five years.

5106     B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in  
5107 § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been  
5108 granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic  
5109 beverage while on the premises. A person who carries a concealed handgun onto the premises of such a  
5110 restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in  
5111 this subsection shall apply to a federal, state, or local law-enforcement officer.

5112     **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

5113     A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in  
5114 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge  
5115 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate  
5116 and distinct felony.

5117     B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in  
5118 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent  
5119 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a  
5120 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
5121 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to  
5122 run consecutively with, any punishment received for the commission of the primary felony.

5123     C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or



5124 other firearm or display such weapon in a threatening manner while committing or attempting to commit the  
5125 illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a  
5126 controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~  
5127 ~~more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a  
5128 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
5129 term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to  
5130 run consecutively with, any punishment received for the commission of the primary felony.

5131 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

5132 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the  
5133 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to  
5134 § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such  
5135 obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth,  
5136 witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a  
5137 Class 1 misdemeanor.

5138 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
5139 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
5140 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in  
5141 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1  
5142 misdemeanor.

5143 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,  
5144 magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer, lawfully  
5145 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court  
5146 relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §, 18.2-248.1,~~  
5147 ~~or § 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony~~  
5148 offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

5149 D. Any person who knowingly and willfully makes any materially false statement or representation to a  
5150 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of  
5151 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

5152 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully  
5153 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,  
5154 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement

5155 officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person  
5156 that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place  
5157 the person under arrest, and (b) a reasonable person who receives such communication knows or should know  
5158 that he is not free to leave.

5159 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

5160 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
5161 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
5162 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
5163 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled  
5164 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is  
5165 guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or  
5166 conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or  
5167 explosives of any nature is guilty of a Class 3 felony.

5168 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

5169 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

5170 A. The following officers shall have the powers of arrest as provided in this section:

5171 1. Members of the State Police force of the Commonwealth;

5172 2. Sheriffs of the various counties and cities, and their deputies;

5173 3. Members of any county police force or any duly constituted police force of any city or town of the  
5174 Commonwealth;

5175 4. The Commissioner, members and employees of the Marine Resources Commission granted the power  
5176 of arrest pursuant to § 28.2-900;

5177 5. Regular conservation police officers appointed pursuant to § 29.1-200;

5178 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty  
5179 officers authorized under § 29.1-205 to make arrests;

5180 7. Conservation officers appointed pursuant to § 10.1-115;

5181 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed  
5182 pursuant to § 46.2-217;

5183 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*  
5184 *Authority*;

5185 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

5186 11. Members of the Division of Capitol Police.

5187 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the  
5188 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a  
5189 felony not in his presence.

5190 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of  
5191 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a  
5192 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an  
5193 order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another  
5194 officer, who may obtain a warrant based upon statements made to him by the arresting officer.

5195 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in  
5196 § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such  
5197 accident has been transported, or in the apprehension of any person charged with the theft of any motor  
5198 vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based  
5199 upon personal investigation, including information obtained from eyewitnesses, that a crime has been  
5200 committed by any person then and there present, apprehend such person without a warrant of arrest. For  
5201 purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or  
5202 person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the  
5203 clearing of the highway or to ensure the safety of the motoring public.

5204 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location  
5205 any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft  
5206 or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of  
5207 § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether  
5208 or not the offense was committed in such officer's presence. Such officers may, within three hours of the  
5209 alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to  
5210 suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4,  
5211 whether or not the offense was committed in such officer's presence.

5212 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another  
5213 jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile  
5214 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer  
5215 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably

5216 accurate description of such person wanted and the crime alleged.

5217 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in  
5218 his presence when the officer receives a radio message from his department or other law-enforcement agency  
5219 within the Commonwealth that a warrant or capias for such offense is on file.

5220 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their  
5221 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)  
5222 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a  
5223 firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such  
5224 property is located on premises used for business or commercial purposes, or a similar local ordinance, when  
5225 any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged  
5226 offense. The arresting officer may issue a summons to any person arrested under this section for a  
5227 misdemeanor violation involving shoplifting.

5228 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

5229 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,  
5230 persons for crimes involving:

- 5231 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;  
5232 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;  
5233 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1; and  
5234 (d) 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare, or  
5235 security of the population of a correctional institution.

5236 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

5237 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
5238 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or  
5239 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other  
5240 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an  
5241 equivalent offense in another state, shall file a report of such arrest with the division safety official designated  
5242 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as  
5243 practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this  
5244 subsection shall be utilized by the local school division solely to implement the provisions of subsection B of  
5245 § 22.1-296.2 and § 22.1-315.

5246 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via

5247 certified mail, return receipt requested, to the mailing address identified by the division superintendent  
5248 pursuant to subsection F of § 22.1-279.8 or (ii) via email to the email address identified by the division  
5249 superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in  
5250 the case file.

5251 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to Virginia  
5252 Employment Commission records, each arresting official shall request in writing that the Virginia  
5253 Employment Commission provide the name of the current employer of each person arrested for an offense set  
5254 forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

5255 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
5256 or conservator of the peace having the power to arrest for a felony shall file a report, as soon as practicable,  
5257 with the division superintendent of the school division in which the student is enrolled upon arresting a  
5258 person who is known or discovered by the arresting official to be a student age 18 or older in any local school  
5259 division in the Commonwealth for:

5260 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
5261 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

5262 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

5263 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
5264 18.2;

5265 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5266 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
5267 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

5268 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (§ ~~18.2-247 4.1-1100~~ et  
5269 seq.) of ~~Chapter 7~~ of Title ~~18.2 4.1~~;

5270 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

5271 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

5272 9. Robbery pursuant to § 18.2-58;

5273 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

5274 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

5275 12. An act of violence by a mob pursuant to § 18.2-42.1; or

5276 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

5277 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

5278 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1  
5279 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer  
5280 shall be permitted to testify as to the results of field tests that have been approved by the Department of  
5281 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act  
5282 (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is  
5283 a controlled substance, *or* imitation controlled substance, *as defined in § 18.2-247*, or marijuana, as defined in  
5284 ~~§ 18.2-247~~ *4.1-600*.

5285 B. In any trial for a violation of § ~~4.1-1105.1~~ *4.1-1105 or 4.1-1106*, any law-enforcement officer shall be  
5286 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the  
5287 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative  
5288 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue,  
5289 is marijuana provided the defendant has been given written notice of his right to request a full chemical  
5290 analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the  
5291 defendant prior to trial.

5292 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ *4.1-1105 or 4.1-1106*, or the  
5293 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by  
5294 motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon  
5295 such motion, the court shall order that the analysis be performed by the Department of Forensic Science in  
5296 accordance with the provisions of § ~~18.2-247~~ *9.1-1101* and shall prescribe in its order the method of custody,  
5297 transfer, and return of evidence submitted for chemical analysis.

5298 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

5299 A. The following property shall be subject to lawful seizure by any officer charged with enforcing the  
5300 provisions of *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of  
5301 Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all  
5302 other personal and real property of any kind or character, used in substantial connection with (a) the illegal  
5303 manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute  
5304 controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with~~  
5305 ~~intent to distribute marijuana~~ in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1 *or 4.1-1103*, or  
5306 (c) a drug-related offense in violation of § ~~4.1-1117~~ *or 18.2-474.1*; (ii) everything of value furnished, or  
5307 intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in  
5308 violation of § 18.2-248.1 *or 4.1-1103* or for a controlled substance or marijuana in violation of § ~~4.1-1117~~ *or*

5309 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together  
5310 with any interest or profits derived from the investment of such money or other property. Under the  
5311 provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed  
5312 punishment for the violation is a term of not less than five years.

5313 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter  
5314 22.1 (§ 19.2-386.1 et seq.).

5315 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

5316 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful  
5317 possession of which is not established or the title to which cannot be ascertained, which have come into the  
5318 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et  
5319 seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

5320 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,  
5321 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such  
5322 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such  
5323 police department or sheriff's office for research and training purposes and for destruction pursuant to  
5324 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of  
5325 Pharmacy once these purposes have been fulfilled.

5326 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such  
5327 substances or paraphernalia, which order shall state the existence and nature of the substance or  
5328 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance  
5329 or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the  
5330 court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be  
5331 given to a person or entity that makes a showing to the court of sufficient need for the property and an ability  
5332 to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and  
5333 manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the  
5334 order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or  
5335 paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event  
5336 a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such  
5337 substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement  
5338 officer of the agency or his designee may, with the written consent of the appropriate attorney for the  
5339 Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of

5340 the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the  
5341 chief law-enforcement officer by the officer to whom the order is directed.

5342 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*  
5343 (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7 (*§ 18.2-247 et seq.*) of Title 18.2 shall be disposed of as  
5344 provided by this section until all rights of appeal have been exhausted, except as provided in *§ 19.2-386.24*.

5345 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any  
5346 law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or  
5347 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation  
5348 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting  
5349 agency's exceeding the limits allowed by this subsection.

5350 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or  
5351 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of  
5352 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)  
5353 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training  
5354 purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement  
5355 officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the  
5356 substances that were used for research and training pursuant to a court order in the immediately preceding  
5357 fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under  
5358 oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

5359 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

5360 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with  
5361 any prosecution or investigation under *Chapter 11* (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7 (*§ 18.2-247 et*  
5362 *seq.*) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly  
5363 selected from the seized substance for representative purposes as evidence and destroy the remainder of the  
5364 seized substance.

5365 Before any destruction is carried out under this section, the law-enforcement agency shall cause the  
5366 material seized to be photographed with identification case numbers or other means of identification and shall  
5367 prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if  
5368 known, or his attorney, at least five days in advance that the photography will take place and that they may be  
5369 present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused



5370 or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and  
5371 place the destruction will occur. Any notice required under the provisions of this section shall be by first-  
5372 class mail to the last known address of the person required to be notified. In addition to the substance retained  
5373 for representative purposes as evidence, all photographs and records made under this section and properly  
5374 identified shall be admissible in any court proceeding for any purposes for which the seized substance itself  
5375 would have been admissible.

5376     **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
5377 **substances, etc.**

5378     Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take  
5379 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation  
5380 controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution  
5381 under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2*. The court in  
5382 its order may make provision for ensuring integrity of these items until further order of the court.

5383     **§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

5384     A. Criminal history record information shall be disseminated, whether directly or through an intermediary,  
5385 only to:

5386     1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of  
5387 the administration of criminal justice and the screening of an employment application or review of  
5388 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination  
5389 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible  
5390 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of  
5391 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this  
5392 subdivision, criminal history record information includes information sent to the Central Criminal Records  
5393 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee  
5394 of the State Police, a police department or sheriff's office that is a part of or administered by the  
5395 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection  
5396 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of  
5397 the administration of criminal justice;

5398     2. Such other individuals and agencies that require criminal history record information to implement a  
5399 state or federal statute or executive order of the President of the United States or Governor that expressly

5400 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except  
5401 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice  
5402 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the  
5403 charge has been recorded and no active prosecution of the charge is pending;

5404 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
5405 services required for the administration of criminal justice pursuant to that agreement which shall specifically  
5406 authorize access to data, limit the use of data to purposes for which given, and ensure the security and  
5407 confidentiality of the data;

5408 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant  
5409 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of  
5410 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5411 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
5412 of the President of the United States or Governor to conduct investigations determining employment  
5413 suitability or eligibility for security clearances allowing access to classified information;

5414 6. Individuals and agencies where authorized by court order or court rule;

5415 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
5416 operated or controlled by any political subdivision, and any public service corporation that operates a public  
5417 transit system owned by a local government for the conduct of investigations of applicants for employment,  
5418 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
5419 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
5420 with the nature of the employment, permit, or license under consideration;

5421 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title  
5422 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position  
5423 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
5424 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
5425 record would be compatible with the nature of the employment under consideration;

5426 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
5427 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
5428 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
5429 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis

5430 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further  
5431 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
5432 express requirement of law;

5433 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
5434 the conduct of investigations of applicants for employment when such employment involves personal contact  
5435 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
5436 employment under consideration;

5437 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
5438 including, but not limited to, issuing visas and passports;

5439 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
5440 his cost, except that criminal history record information shall be supplied at no charge to a person who has  
5441 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
5442 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
5443 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
5444 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in  
5445 § 15.2-1713.1;

5446 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
5447 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
5448 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
5449 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
5450 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
5451 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
5452 Services' representative or a federal or state authority or court as may be required to comply with an express  
5453 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
5454 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
5455 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of  
5456 § 22.1-289.035 or § 22.1-289.039;

5457 13. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
5458 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
5459 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
5460 pursuant to § 63.2-901.1;

5461 14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
5462 who accept public school employment and those current school board employees for whom a report of arrest  
5463 has been made pursuant to § 19.2-83.1;

5464 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
5465 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the  
5466 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
5467 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5468 16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
5469 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
5470 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
5471 limitations set out in subsection E;

5472 17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
5473 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
5474 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5475 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in  
5476 § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in*  
5477 *§ 4.1-622;*

5478 19. The State Board of Elections and authorized officers and employees thereof and general registrars  
5479 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
5480 registration, limited to any record of felony convictions;

5481 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
5482 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
5483 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,  
5484 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
5485 evaluation, treatment, or discharge planning;

5486 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
5487 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under  
5488 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5489 22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
5490 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
5491 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5492 23. The Department of Behavioral Health and Developmental Services and facilities operated by the  
5493 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
5494 instructions;

5495 24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
5496 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
5497 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
5498 Department of State Police;

5499 25. Public institutions of higher education and nonprofit private institutions of higher education for the  
5500 purpose of screening individuals who are offered or accept employment;

5501 26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
5502 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
5503 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
5504 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
5505 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
5506 that such disclosure was made to the threat assessment team;

5507 27. Executive directors of community services boards or the personnel director serving the community  
5508 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
5509 residential service provider, permission to enter into a shared living arrangement with a person receiving  
5510 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
5511 community services board to serve in a direct care position on behalf of the community services board  
5512 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5513 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
5514 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
5515 permission to enter into a shared living arrangement with a person receiving medical assistance services  
5516 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
5517 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
5518 37.2-506.1, and 37.2-607;

5519 29. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
5520 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,  
5521 address, demographics and social security number of the data subject shall be released;

5522 30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of

Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

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

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

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

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

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

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

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

5554 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5555 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
5556 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
5557 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
5558 administered by the Department of Medical Assistance Services;

5559 39. The State Corporation Commission for the purpose of investigating individuals who are current or  
5560 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
5561 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
5562 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
5563 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
5564 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
5565 or its designee;

5566 40. The Department of Professional and Occupational Regulation for the purpose of investigating  
5567 individuals for initial licensure pursuant to § 54.1-2106.1;

5568 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
5569 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
5570 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
5571 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5572 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5573 43. The State Treasurer for the purpose of determining whether a person receiving compensation for  
5574 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5575 44. The Department of Education or its agents or designees for the purpose of screening individuals  
5576 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
5577 of child care services for which child care subsidy payments may be provided;

5578 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
5579 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
5580 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5581 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
5582 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5583 47. Administrators and board presidents of and applicants for licensure or registration as a child day  
5584 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the

5585 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
5586 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
5587 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
5588 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
5589 a federal or state authority or court as may be required to comply with an express requirement of law for such  
5590 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
5591 of Public Instruction's representative from issuing written certifications regarding the results of prior  
5592 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5593 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
5594 are offered or accept employment or will be providing volunteer or contractual services with the National  
5595 Center for Missing and Exploited Children;

5596 49. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
5597 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5598 50. Other entities as otherwise provided by law.

5599 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
5600 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
5601 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
5602 whom a report has been made under the provisions of this chapter.

5603 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
5604 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
5605 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
5606 of conviction data covering the person named in the request to the person making the request; however, such  
5607 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
5608 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
5609 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
5610 the request shall be furnished at his cost a certification to that effect.

5611 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
5612 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
5613 otherwise provided in subdivision A 47.

5614 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history



5615 record information for employment or licensing inquiries except as provided by law.

5616 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange  
5617 prior to dissemination of any criminal history record information on offenses required to be reported to the  
5618 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.  
5619 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the  
5620 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal  
5621 justice agency to whom a request has been made for the dissemination of criminal history record information  
5622 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the  
5623 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses  
5624 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the  
5625 record as required by § 15.2-1722.

5626 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
5627 organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for  
5628 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5629 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
5630 centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any  
5631 offense specified in § 63.2-1720.

5632 G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited  
5633 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
5634 crime in § 19.2-392.02.

5635 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
5636 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
5637 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
5638 request to the employer or prospective employer making the request, provided that the person on whom the  
5639 data is being obtained has consented in writing to the making of such request and has presented a photo-  
5640 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
5641 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a  
5642 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
5643 Exchange.

5644 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal

5645 history record information, including criminal history record information maintained in the National Crime  
5646 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his  
5647 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal  
5648 history record information provided under this subsection shall be disseminated further.

5649 **§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.**

5650 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,  
5651 only to:

5652 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of  
5653 the administration of criminal justice and the screening of an employment application or review of  
5654 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination  
5655 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible  
5656 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of  
5657 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this  
5658 subdivision, criminal history record information includes information sent to the Central Criminal Records  
5659 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee  
5660 of the State Police, a police department or sheriff's office that is a part of or administered by the  
5661 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection  
5662 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of  
5663 the administration of criminal justice;

5664 2. Such other individuals and agencies that require criminal history record information to implement a  
5665 state or federal statute or executive order of the President of the United States or Governor that expressly  
5666 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except  
5667 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice  
5668 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the  
5669 charge has been recorded and no active prosecution of the charge is pending;

5670 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
5671 services required for the administration of criminal justice pursuant to that agreement which shall specifically  
5672 authorize access to data, limit the use of data to purposes for which given, and ensure the security and  
5673 confidentiality of the data;

5674 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant

5675 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of  
5676 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5677 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
5678 of the President of the United States or Governor to conduct investigations determining employment  
5679 suitability or eligibility for security clearances allowing access to classified information;

5680 6. Individuals and agencies where authorized by court order or court rule;

5681 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
5682 operated or controlled by any political subdivision, and any public service corporation that operates a public  
5683 transit system owned by a local government for the conduct of investigations of applicants for employment,  
5684 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
5685 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
5686 with the nature of the employment, permit, or license under consideration;

5687 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) ~~of Title~~  
5688 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position  
5689 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
5690 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
5691 record would be compatible with the nature of the employment under consideration;

5692 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
5693 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
5694 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
5695 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis  
5696 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further  
5697 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
5698 express requirement of law;

5699 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
5700 the conduct of investigations of applicants for employment when such employment involves personal contact  
5701 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
5702 employment under consideration;

5703 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
5704 including, but not limited to, issuing visas and passports;

5705 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
5706 his cost, except that criminal history record information shall be supplied at no charge to a person who has  
5707 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
5708 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
5709 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
5710 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in  
5711 § 15.2-1713.1;

5712 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
5713 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
5714 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
5715 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
5716 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
5717 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
5718 Services' representative or a federal or state authority or court as may be required to comply with an express  
5719 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
5720 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
5721 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of  
5722 § 22.1-289.035 or § 22.1-289.039;

5723 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended  
5724 care center for dissemination to the State Health Commissioner's representative pursuant to  
5725 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and  
5726 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be  
5727 further disseminated by the center to any party other than the data subject, the State Health Commissioner's  
5728 representative, or a federal or state authority or court as may be required to comply with an express  
5729 requirement of law;

5730 14. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
5731 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
5732 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
5733 pursuant to § 63.2-901.1;

5734 15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
5735 who accept public school employment and those current school board employees for whom a report of arrest

5736 has been made pursuant to § 19.2-83.1;

5737 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
5738 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the  
5739 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
5740 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5741 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for  
5742 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to  
5743 § 32.1-162.15:1.17;

5744 18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
5745 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
5746 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
5747 limitations set out in subsection E;

5748 19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
5749 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
5750 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5751 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in  
5752 § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in*  
5753 *§ 4.1-622;*

5754 21. The State Board of Elections and authorized officers and employees thereof and general registrars  
5755 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
5756 registration, limited to any record of felony convictions;

5757 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
5758 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
5759 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,  
5760 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
5761 evaluation, treatment, or discharge planning;

5762 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
5763 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under  
5764 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5765 24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
5766 Department of Education, or the Department of Behavioral Health and Developmental Services for the

5767 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5768 25. The Department of Behavioral Health and Developmental Services and facilities operated by the  
5769 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
5770 instructions;

5771 26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
5772 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
5773 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
5774 Department of State Police;

5775 27. Public institutions of higher education and nonprofit private institutions of higher education for the  
5776 purpose of screening individuals who are offered or accept employment;

5777 28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
5778 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
5779 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
5780 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
5781 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
5782 that such disclosure was made to the threat assessment team;

5783 29. Executive directors of community services boards or the personnel director serving the community  
5784 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
5785 residential service provider, permission to enter into a shared living arrangement with a person receiving  
5786 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
5787 community services board to serve in a direct care position on behalf of the community services board  
5788 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5789 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
5790 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
5791 permission to enter into a shared living arrangement with a person receiving medical assistance services  
5792 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
5793 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
5794 37.2-506.1, and 37.2-607;

5795 31. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
5796 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,

5797 address, demographics and social security number of the data subject shall be released;

5798 32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
5799 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose  
5800 of determining if any applicant who accepts employment in any direct care position or requests approval as a  
5801 sponsored residential service provider, permission to enter into a shared living arrangement with a person  
5802 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with  
5803 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have  
5804 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or  
5805 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5806 33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for  
5807 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et  
5808 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5809 34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee  
5810 for Courts of Justice for the purpose of determining if any person being considered for election to any  
5811 judgeship has been convicted of a crime;

5812 35. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5813 determining an individual's fitness for employment in positions designated as sensitive under Department of  
5814 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5815 36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
5816 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
5817 Predators Act (§ 37.2-900 et seq.);

5818 37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
5819 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
5820 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
5821 laborers, and other visitors;

5822 38. Any employer of individuals whose employment requires that they enter the homes of others, for the  
5823 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5824 39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
5825 of adult foster care and home-based services or (ii) any individual with whom the agency is considering  
5826 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the

5827 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
5828 state authority or court as may be required to comply with an express requirement of law for such further  
5829 dissemination, subject to limitations set out in subsection G;

5830 40. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5831 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
5832 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
5833 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
5834 administered by the Department of Medical Assistance Services;

5835 41. The State Corporation Commission for the purpose of investigating individuals who are current or  
5836 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
5837 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§ 6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
5838 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
5839 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
5840 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
5841 or its designee;

5842 42. The Department of Professional and Occupational Regulation for the purpose of investigating  
5843 individuals for initial licensure pursuant to § 54.1-2106.1;

5844 43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
5845 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
5846 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
5847 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5848 44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5849 45. The State Treasurer for the purpose of determining whether a person receiving compensation for  
5850 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5851 46. The Department of Education or its agents or designees for the purpose of screening individuals  
5852 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
5853 of child care services for which child care subsidy payments may be provided;

5854 47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
5855 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
5856 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5857 48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure



5858 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5859 49. Administrators and board presidents of and applicants for licensure or registration as a child day  
5860 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
5861 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
5862 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
5863 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
5864 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
5865 a federal or state authority or court as may be required to comply with an express requirement of law for such  
5866 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
5867 of Public Instruction's representative from issuing written certifications regarding the results of prior  
5868 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5869 50. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
5870 are offered or accept employment or will be providing volunteer or contractual services with the National  
5871 Center for Missing and Exploited Children;

5872 51. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
5873 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5874 52. Other entities as otherwise provided by law.

5875 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
5876 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
5877 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
5878 whom a report has been made under the provisions of this chapter.

5879 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
5880 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
5881 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
5882 of conviction data covering the person named in the request to the person making the request; however, such  
5883 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
5884 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
5885 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
5886 the request shall be furnished at his cost a certification to that effect.

5887 B. Use of criminal history record information disseminated to noncriminal justice agencies under this

5888 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
5889 otherwise provided in subdivision A 49.

5890 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history  
5891 record information for employment or licensing inquiries except as provided by law.

5892 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange  
5893 prior to dissemination of any criminal history record information on offenses required to be reported to the  
5894 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.  
5895 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the  
5896 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal  
5897 justice agency to whom a request has been made for the dissemination of criminal history record information  
5898 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the  
5899 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses  
5900 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the  
5901 record as required by § 15.2-1722.

5902 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
5903 organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for  
5904 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5905 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
5906 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any  
5907 offense specified in § 63.2-1720.

5908 G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited  
5909 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
5910 crime in § 19.2-392.02.

5911 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
5912 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
5913 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
5914 request to the employer or prospective employer making the request, provided that the person on whom the  
5915 data is being obtained has consented in writing to the making of such request and has presented a photo-  
5916 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
5917 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a

5918 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
5919 Exchange.

5920 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal  
5921 history record information, including criminal history record information maintained in the National Crime  
5922 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his  
5923 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal  
5924 history record information provided under this subsection shall be disseminated further.

5925 **§ 19.2-389.3. (Repealed effective July 1, 2026) Marijuana possession; limits on dissemination of**  
5926 **criminal history record information; prohibited practices by employers, educational institutions, and**  
5927 **state and local governments; penalty.**

5928 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of  
5929 § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ § 18.2-248.1 or  
5930 *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central  
5931 Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such  
5932 records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to  
5933 possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a  
5934 local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a  
5935 pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the  
5936 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local  
5937 community-based probation services agencies established pursuant to the Comprehensive Community  
5938 Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult  
5939 local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for  
5940 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
5941 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
5942 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines  
5943 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State  
5944 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any  
5945 political subdivision thereof, and who is responsible for the prevention and detection of crime and the  
5946 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration  
5947 of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research  
5948 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's

5949 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the  
5950 purpose of screening any person for full-time or part-time employment with the State Police or a police  
5951 department or sheriff's office that is a part of or administered by the Commonwealth or any political  
5952 subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any  
5953 person who applies to be a volunteer with or an employee of an emergency medical services agency as  
5954 provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science  
5955 for the purpose of screening any person for full-time or part-time employment with the Department of  
5956 Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an  
5957 individual employed as a public safety official of the locality, that has adopted an ordinance in accordance  
5958 with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with  
5959 or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any  
5960 full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in  
5961 § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the  
5962 regulations of the Federal Motor Carrier Safety Administration.

5963 B. An employer or educational institution shall not, in any application, interview, or otherwise, require an  
5964 applicant for employment or admission to disclose information concerning any arrest, criminal charge, or  
5965 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for  
5966 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
5967 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal  
5968 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for  
5969 public inspection pursuant to subsection A.

5970 C. Agencies, officials, and employees of the state and local governments shall not, in any application,  
5971 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to  
5972 disclose information concerning any arrest, criminal charge, or conviction against him when the record  
5973 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
5974 A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction,  
5975 include a reference to or information concerning any arrest, criminal charge, or conviction when the record  
5976 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
5977 A. Such an application may not be denied solely because of the applicant's refusal to disclose information  
5978 concerning any such arrest, criminal charge, or conviction.

5979 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each  
5980 violation.

5981 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**  
5982 **employees or volunteers providing care to children or the elderly or disabled.**

5983 A. For purposes of this section:

5984 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
5985 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony  
5986 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or  
5987 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3;  
5988 any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52,  
5989 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,  
5990 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony  
5991 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,  
5992 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3,  
5993 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or  
5994 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or  
5995 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of  
5996 § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any  
5997 violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1,  
5998 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3,  
5999 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any  
6000 violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2,  
6001 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484,  
6002 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction;  
6003 (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar  
6004 offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248,  
6005 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,  
6006 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of  
6007 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the  
6008 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to  
6009 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any

6010 finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.)  
6011 of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the  
6012 Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense  
6013 under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes  
6014 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)  
6015 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date  
6016 of the conviction.

6017 "Barrier crime information" means the following facts concerning a person who has been arrested for, or  
6018 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of  
6019 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of  
6020 the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of  
6021 the charge, and any other information that may be useful in identifying persons arrested for or convicted of a  
6022 barrier crime.

6023 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation  
6024 to children or the elderly or disabled.

6025 "Department" means the Department of State Police.

6026 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks  
6027 to volunteer for a qualified entity.

6028 "Identification document" means a document made or issued by or under the authority of the United  
6029 States government, a state, a political subdivision of a state, a foreign government, political subdivision of a  
6030 foreign government, an international governmental or an international quasi-governmental organization that,  
6031 when completed with information concerning a particular individual, is of a type intended or commonly  
6032 accepted for the purpose of identification of individuals.

6033 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have  
6034 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;  
6035 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to  
6036 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

6037 "Qualified entity" means a business or organization that provides care to children or the elderly or  
6038 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
6039 pursuant to subdivision A 7 of § 22.1-289.030.

6040 B. A qualified entity may request the Department of State Police to conduct a national criminal  
6041 background check on any provider who is employed by such entity. No qualified entity may request a  
6042 national criminal background check on a provider until such provider has:

6043 1. Been fingerprinted; and

6044 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date  
6045 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has  
6046 ever been convicted of or is the subject of pending charges for a criminal offense within or outside the  
6047 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the  
6048 particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv)  
6049 a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the  
6050 accuracy and completeness of any information contained in any such report, and to obtain a prompt  
6051 determination as to the validity of such challenge before a final determination is made by the Department;  
6052 and (v) a notice to the provider that prior to the completion of the background check the qualified entity may  
6053 choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified  
6054 entity provides care.

6055 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)  
6056 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the  
6057 Department shall make a determination whether the provider has been convicted of or is the subject of  
6058 charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information,  
6059 the Department shall access the national criminal history background check system, which is maintained by  
6060 the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall  
6061 access the Central Criminal Records Exchange maintained by the Department. If the Department receives a  
6062 background report lacking disposition data, the Department shall conduct research in whatever state and local  
6063 recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable  
6064 efforts to respond to a qualified entity's inquiry within 15 business days.

6065 D. Any background check conducted pursuant to this section for a provider employed by a private entity  
6066 shall be screened by the Department of State Police. If the provider has been convicted of or is under  
6067 indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work  
6068 or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

6069 E. Any background check conducted pursuant to this section for a provider employed by a governmental  
6070 entity shall be provided to that entity.

6071 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national  
6072 criminal background check, the Department and the Federal Bureau of Investigation may each charge the  
6073 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the  
6074 fingerprints.

6075 G. The failure to request a criminal background check pursuant to subsection B shall not be considered  
6076 negligence per se in any civil action.

6077 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp**  
6078 **products intended for smoking, and gambling.**

6079 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by  
6080 the Board of Education.

6081 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,  
6082 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic  
6083 Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials  
6084 to the Department of Education. The Department of Education shall review and shall distribute such materials  
6085 as are approved to the public schools.

6086 The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall  
6087 distribute to each local school division educational materials concerning the health and safety risks of using  
6088 retail tobacco products and hemp products intended for smoking, as such terms are defined in § 18.2-371.2.  
6089 Instruction concerning the health and safety risks of using *retail* tobacco products and hemp products  
6090 intended for smoking, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary  
6091 and secondary school in the Commonwealth, consistent with such educational materials.

6092 C. Instruction concerning gambling and the addictive potential thereof shall be provided by the public  
6093 schools as prescribed by the Board.

6094 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

6095 A. School boards shall expel from school attendance any student whom such school board has  
6096 determined, in accordance with the procedures set forth in this article, to have brought a controlled substance;  
6097 *or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247* onto school property  
6098 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board



6099 may, however, determine, based on the facts of a particular situation, that special circumstances exist and no  
6100 disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board  
6101 may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of  
6102 such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations  
6103 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such  
6104 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.  
6105 Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the  
6106 particular situation.

6107 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this  
6108 section no later than three months after the date on which this act becomes effective.

6109 **§ 23.1-1301. Governing boards; powers.**

6110 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 6111 1. Make regulations and policies concerning the institution;
- 6112 2. Manage the funds of the institution and approve an annual budget;
- 6113 3. Appoint the chief executive officer of the institution;
- 6114 4. Appoint professors and fix their salaries; and
- 6115 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

6116 B. The governing board of each public institution of higher education or its designee may:

- 6117 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
6118 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
6119 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and  
6120 conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the  
6121 same manner as all other gifts and bequests;
- 6122 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes  
6123 on any property owned by the institution;
- 6124 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,  
6125 or controlled by the institution;
- 6126 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
6127 instructors, and other employees;
- 6128 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the

6129 regulations or institution policies required pursuant to § 23.1-1303;

6130 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission  
6131 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such  
6132 regulations or policies;

6133 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote  
6134 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness  
6135 and prevention of sexual crimes committed upon students;

6136 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in  
6137 accordance with the prohibition against hazing as defined in § 18.2-56;

6138 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an  
6139 interest, provided such assignment is in accordance with the terms of the institution's intellectual property  
6140 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of  
6141 such property (i) developed wholly or predominantly through the use of state general funds, exclusive of  
6142 capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned  
6143 duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship  
6144 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit  
6145 organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective  
6146 institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the  
6147 Governor does not approve such transfer, the materials shall remain the property of the respective institutions  
6148 and may be used and developed in any manner permitted by law;

6149 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through  
6150 electronic communication means pursuant to § 2.2-3708.3; and

6151 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to  
6152 enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
6153 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and  
6154 local ordinances with respect to offenses occurring on the property of the institution.

6155 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

6156 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,  
6157 vehicle registration, certificate of title, or other document issued by the Department if such person has not  
6158 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled

6159 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or  
6160 altered documents.

6161 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle  
6162 registration, certificate of title, or other document in violation of the provisions of subsection A.

6163 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special  
6164 identification card, vehicle registration, certificate of title, or other document obtained in violation of the  
6165 provisions of subsection A.

6166 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is  
6167 charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any  
6168 document issued by the Department for the purpose of engaging in any age-limited activity, including but not  
6169 limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is  
6170 charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

6171 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special  
6172 identification card, vehicle registration, certificate of title, or other document issued by the Department has  
6173 been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of  
6174 the cancellation to the address of record maintained by the Department.

6175 F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any  
6176 document issued by the Department, (ii) where any person received or created any counterfeit, forged, or  
6177 altered document used to obtain any document issued by the Department, or (iii) where any counterfeit,  
6178 forged, or altered document has been filed with the Department.

6179 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card**  
6180 **to obtain alcoholic beverages or marijuana; penalties.**

6181 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive  
6182 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the  
6183 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States  
6184 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of  
6185 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign  
6186 government agency; or official student identification card of an institution of higher education to obtain  
6187 alcoholic beverages ~~shall be~~ *or marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a  
6188 violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a

6189 motor vehicle for a period of not less than 30 days nor more than one year.

6190 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales or marijuana sales.**

6191 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to  
6192 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic  
6193 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be  
6194 the operator of the establishment has allowed it to become a meeting place for persons committing serious  
6195 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be  
6196 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement  
6197 officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of  
6198 evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol  
6199 *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety  
6200 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the  
6201 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with  
6202 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the  
6203 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later  
6204 finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change  
6205 of ownership, management, or business operations at the establishment, or other change in circumstance.

6206 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall  
6207 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic  
6208 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the  
6209 activities at the establishment complained of and conduct an administrative hearing. After the Virginia  
6210 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final  
6211 determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia*  
6212 *Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without  
6213 further action by the complainant, respondent, or the court.

6214 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

6215 This section shall apply to any person who is not a qualified voter because of a felony conviction, who  
6216 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the  
6217 conditions and requirements set out in this section.

6218 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in  
6219 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101,

6220 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a  
6221 felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted  
6222 of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil  
6223 right to be eligible to register to vote through the process set out in this section. On such petition, the court  
6224 may approve the petition for restoration to the person of his right if the court is satisfied from the evidence  
6225 presented that the petitioner has completed, five or more years previously, service of any sentence and any  
6226 modification of sentence including probation, parole, and suspension of sentence; that the petitioner has  
6227 demonstrated civic responsibility through community or comparable service; and that the petitioner has been  
6228 free from criminal convictions, excluding traffic infractions, for the same period.

6229 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,  
6230 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to  
6231 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to  
6232 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall  
6233 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be  
6234 eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send,  
6235 within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate  
6236 of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's  
6237 denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no  
6238 right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the  
6239 restoration of the right or denial of restoration by the Governor.

6240 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
6241 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

6242 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

6243 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as  
6244 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public  
6245 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"  
6246 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation  
6247 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or  
6248 relieve those suffering from any injury, deformity or disease.

6249 Signing a birth or death certificate, or signing any statement certifying that the person so signing has

rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

**§ 54.1-3443. Board to administer article.**

A. The Board shall administer this article and may add substances to or deschedule or reschedule all substances enumerated in the schedules in this article pursuant to the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider the following:

1. The actual or relative potential for abuse;
2. The scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the substance;
4. The history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk to the public health;
7. The potential of the substance to produce psychic or physical dependence; and
8. Whether the substance is an immediate precursor of a substance already controlled under this article.

B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a regulation controlling the substance if it finds the substance has a potential for abuse.

C. If the Board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

6280 D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall  
6281 be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations  
6282 pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such  
6283 amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it  
6284 shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to  
6285 any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all  
6286 substances it intends to schedule by regulation. The Board shall notify the House and Senate Committees for  
6287 Courts of Justice of any new substance added to Schedule I or II pursuant to this subsection. Any substance  
6288 added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18  
6289 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law  
6290 is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from  
6291 adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to  
6292 the provisions of subsections A, B, and E.

6293 E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law  
6294 and notice of such action is given to the Board, the Board may similarly control the substance under this  
6295 chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order  
6296 or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by  
6297 amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the  
6298 Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on  
6299 the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be  
6300 notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by  
6301 regulation in such notice.

6302 F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or  
6303 tobacco as those terms are defined or used in Title 4.1.

6304 G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the  
6305 provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully  
6306 sold over the counter without a prescription.

6307 H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled  
6308 pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600; ~~18.2-247~~; or  
6309 54.1-3401.

6310 § 54.1-4426. *Accounting services for licensed marijuana establishments.*

6311 A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided  
6312 in § 4.1-600.

6313 B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting  
6314 services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation  
6315 solely for providing such accounting services.

6316 C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed  
6317 marijuana establishment.

6318 **§ 58.1-301. Conformity to Internal Revenue Code.**

6319 A. Any term used in this chapter shall have the same meaning as when used in a comparable context in  
6320 the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

6321 B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall  
6322 mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of  
6323 the laws of the United States relating to federal income taxes, except for:

6324 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m),  
6325 1400L, and 1400N of the Internal Revenue Code;

6326 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal  
6327 Revenue Code;

6328 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the  
6329 Internal Revenue Code;

6330 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax  
6331 purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable  
6332 debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall  
6333 be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to  
6334 include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period  
6335 beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-  
6336 year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before  
6337 April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code  
6338 shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of  
6339 indebtedness in connection with the reacquisition of an "applicable debt instrument";



6340 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on  
6341 itemized deductions under § 68(f) of the Internal Revenue Code;

6342 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable  
6343 years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set  
6344 forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed  
6345 for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the  
6346 threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for  
6347 medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross  
6348 income;

6349 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic  
6350 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

6351 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.  
6352 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

6353 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.  
6354 116-136 (2020), related to the limitation on business interest;

6355 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3),  
6356 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal  
6357 Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the  
6358 federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases  
6359 for certain loan forgiveness and other business financial assistance; ~~and~~

6360 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would  
6361 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the  
6362 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall  
6363 not apply to any amendment to federal income tax law that is either subsequently adopted by the General  
6364 Assembly or a federal tax extender as defined in subdivision b.

6365 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of  
6366 the previous regular session of the General Assembly and the first day of the subsequent regular session of  
6367 the General Assembly if the cumulative projected impact of such amendments would increase or decrease  
6368 general fund revenues by greater than \$75 million in the fiscal year in which the amendments were enacted or  
6369 any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment

6370 to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender  
6371 as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met.  
6372 However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the \$75  
6373 million threshold for purposes of determining whether such threshold has been met.

6374 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based  
6375 on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as  
6376 published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the  
6377 previous year.

6378 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law  
6379 or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold  
6380 impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of  
6381 a federal tax provision to which Virginia conforms or has previously conformed.

6382 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and  
6383 Appropriations and the House Committees on Appropriations and Finance, shall be responsible for  
6384 determining whether the criteria of subdivision a are met.

6385 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the  
6386 fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the  
6387 preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and  
6388 Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall  
6389 also provide updates to the same Chairmen on any further amendments to federal income tax law occurring  
6390 between submission of the required report and the first day of the subsequent regular session of the General  
6391 Assembly; and

6392 *12. For taxable years beginning on and after January 1, 2026, the prohibition on utilizing tax deductions*  
6393 *for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in*  
6394 *Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) under § 280E of the Internal Revenue*  
6395 *Code.*

6396 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for  
6397 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the  
6398 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

6399 **§ 59.1-200. Prohibited practices.**

6400 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
6401 transaction are hereby declared unlawful:

6402 1. Misrepresenting goods or services as those of another;

6403 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

6404 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,  
6405 with another;

6406 4. Misrepresenting geographic origin in connection with goods or services;

6407 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
6408 benefits;

6409 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

6410 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,  
6411 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first class," without clearly  
6412 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,  
6413 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfections, or  
6414 "not first class";

6415 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the  
6416 price or upon the terms advertised.

6417 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant  
6418 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or  
6419 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when  
6420 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are  
6421 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or  
6422 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or  
6423 reasonably expected to have at least such quantity or amount for sale;

6424 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of  
6425 price reductions;

6426 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts  
6427 installed;

6428 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill

6429 for merchandise or services previously ordered;

6430 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
6431 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's  
6432 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the  
6433 goods or services advertised or offered for sale;

6434 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or  
6435 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that  
6436 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal  
6437 statutes or regulations;

6438 13a. Failing to provide to a consumer, or failing to use or include in any written document or material  
6439 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,  
6440 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so  
6441 provide, use, or include the statement, disclosure, notice, or other information in connection with the  
6442 consumer transaction;

6443 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection  
6444 with a consumer transaction;

6445 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,  
6446 or 3.2-6519 is a violation of this chapter;

6447 16. Failing to disclose all conditions, charges, or fees relating to:

6448 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
6449 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
6450 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not  
6451 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this  
6452 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than  
6453 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of  
6454 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of  
6455 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be  
6456 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to  
6457 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor  
6458 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order

merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

6489 seq.);

6490 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

6491 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

6492 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

6493 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

6494 35. Using the consumer's social security number as the consumer's account number with the supplier, if  
6495 the consumer has requested in writing that the supplier use an alternate number not associated with the  
6496 consumer's social security number;

6497 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

6498 37. Violating any provision of § 8.01-40.2;

6499 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

6500 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

6501 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

6502 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525  
6503 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in  
6504 § 59.1-526;

6505 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

6506 43. Violating any provision of § 59.1-443.2;

6507 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

6508 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

6509 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

6510 47. Violating any provision of § 18.2-239;

6511 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

6512 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has  
6513 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable  
6514 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has  
6515 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the  
6516 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's  
6517 products that are used, secondhand or "seconds";

6518 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

6519 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

- 6520 52. Violating any provision of § 8.2-317.1;
- 6521 53. Violating subsection A of § 9.1-149.1;
- 6522 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 6523 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 6524 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 6525 drywall has been permanently installed or affixed;
- 6526 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 6527 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 6528 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 6529 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 6530 seq.) of Title 54.1;
- 6531 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 6532 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 6533 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 6534 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 6535 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 6536 59. Violating any provision of subsection E of § 32.1-126;
- 6537 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 6538 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 6539 61. Violating any provision of § 2.2-2001.5;
- 6540 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 6541 63. Violating any provision of § 6.2-312;
- 6542 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 6543 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 6544 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 6545 67. Knowingly violating any provision of § 8.01-27.5;
- 6546 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 6547 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 6548 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 6549 obligation to pay for the goods or services;
- 6550 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,

6551 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic  
6552 derivative" means a chemical compound produced by man through a chemical transformation to turn a  
6553 compound into a different compound by adding or subtracting molecules to or from the original compound.  
6554 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug  
6555 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit  
6556 any conduct permitted under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600*  
6557 *et seq.)*;

6558 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human  
6559 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply  
6560 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
6561 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter~~  
6562 ~~16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;

6563 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
6564 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as  
6565 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an  
6566 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21  
6567 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a  
6568 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance  
6569 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)  
6570 accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to~~  
6571 ~~standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting~~  
6572 ~~body~~ *a licensed marijuana testing facility*, that states the tetrahydrocannabinol concentration of the substance  
6573 or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision  
6574 shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and  
6575 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted  
6576 under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;

6577 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in  
6578 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol  
6579 that depicts or is in the shape of a human, animal, vehicle, or fruit;

6580 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
6581 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper



6582 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §  
6583 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,  
6584 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,  
6585 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

6586 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a  
6587 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to  
6588 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
6589 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16  
6590 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July  
6591 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

6592 75. Violating any provision of § 59.1-466.8;

6593 76. Violating subsection F of § 36-96.3:1;

6594 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any  
6595 kratom product that does not include a label listing all ingredients and with the following guidance: "This  
6596 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,  
6597 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the  
6598 plant *Mitragyna speciosa* or any extract thereof;

6599 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved  
6600 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted  
6601 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,  
6602 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not  
6603 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the  
6604 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning  
6605 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not  
6606 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the  
6607 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved  
6608 location;

6609 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a  
6610 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any  
6611 such good or provision of any such continuous service;

6612 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

6613 81. Selling or offering for sale services as a professional mold remediator to be performed upon any  
6614 residential dwelling without holding a mold remediation certification from a nationally or internationally  
6615 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental  
6616 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)  
6617 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent  
6618 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the  
6619 Commonwealth;

6620 82. Willfully violating any provision of § 59.1-444.4;

6621 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

6622 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the  
6623 requirements of 21 C.F.R. Part 101;

6624 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual  
6625 health information without the consent of the consumer;

6626 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

6627 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et  
6628 seq.).

6629 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease  
6630 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth  
6631 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation  
6632 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

6633 **2. That §§ 4.1-1101.1, 4.1-1105.1, and 18.2-251.1 of the Code of Virginia are repealed.**

6634 **3. That the following provisions shall become effective on January 1, 2027: (i) §§ 2.2-2499.8, 3.2-4113,**  
6635 **4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.1,**  
6636 **18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1,**  
6637 **18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.4,**  
6638 **18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-389.3,**  
6639 **19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-277.08, 46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903,**  
6640 **54.1-3443, and 59.1-200 of the Code of Virginia, as amended by this act; (ii) §§ 4.1-1102 through**  
6641 **4.1-1107, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303**  
6642 **through 4.1-1309 of the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, and**

6643 18.2-251.1 of the Code of Virginia, as repealed by this act.

6644 4. That by November 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to  
6645 100 microbusiness licenses pursuant to § 4.1-803 of the Code of Virginia, as created by this act, to  
6646 applicants that (i) (a) are industrial hemp processors or growers that (1) are registered with the  
6647 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of  
6648 Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, and are in good  
6649 standing as of July 1, 2026 or (2) were previously registered with the Commissioner of Agriculture and  
6650 Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia,  
6651 completed such registration prior to January 1, 2021, were in good standing prior to forfeiting such  
6652 registration or allowing such registration to expire, and have established the reason for the previous  
6653 forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance  
6654 issues related to the previous registration; (b) qualify as an impact license applicant pursuant to  
6655 subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act; or (c) qualify as a farmer  
6656 under the U.S. Department of Agriculture qualifications and (ii) meet any applicable licensing  
6657 requirements and financial, security, and operational readiness criteria as established by the  
6658 Authority. The Authority shall begin accepting applications for such microbusiness licenses no later  
6659 than July 1, 2026.

6660 5. That a pharmaceutical processor issued a permit by the Board of Directors (the Board) of the  
6661 Virginia Cannabis Control Authority (the Authority) pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the  
6662 Code of Virginia shall apply to the Board for dual-use privileges pursuant to § 4.1-1602.1 of the Code  
6663 of Virginia, as created by this act, in a manner prescribed by the Board between July 1, 2026, and  
6664 December 1, 2026. No later than July 1, 2026, the Authority shall create a streamlined application  
6665 process for pharmaceutical processors to apply for such dual-use privileges which shall include a  
6666 requirement that a pharmaceutical processor submit to and obtain approval from the Authority for a  
6667 detailed medical cannabis program preservation plan describing how such processor will prioritize  
6668 sales and access to medical cannabis products for qualifying patients, including a plan for managing  
6669 customer traffic flow, preventing supply shortages, and ensuring appropriate staffing. Provided the  
6670 applicable licensing requirements are met and upon the payment of a one-time \$10 million fee to the  
6671 Authority by the pharmaceutical processor, by December 1, 2026, the Board shall verify that such  
6672 pharmaceutical processor and its cannabis dispensing facilities may exercise dual-use privileges. On  
6673 and after December 1, 2026, a pharmaceutical processor issued a permit pursuant to Chapter 16

6674 (§ 4.1-1600 et seq.) of the Code of Virginia who has not applied for verification to exercise dual-use  
6675 privileges and paid the conversion fee shall not exercise such dual-use privileges or renew its permit.

6676 6. That by December 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to  
6677 10 licenses, consisting of no more than five marijuana cultivation facility licenses and no more than five  
6678 marijuana processing facility licenses, to applicants that are industrial hemp processors or growers  
6679 that (i)(a) are registered with the Commissioner of Agriculture and Consumer Services pursuant to  
6680 Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration  
6681 prior to January 1, 2021, or (b) (1) were previously registered with the Commissioner of Agriculture  
6682 and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of  
6683 Virginia; (2) completed such registration prior to January 1, 2021; (3) were in good standing prior to  
6684 forfeiting such registration or allowing such registration to expire; and (4) have established the reason  
6685 for the previous forfeiture or lapse of such registration and disclosed any violations, enforcement  
6686 actions, or compliance issues related to the previous registration; (ii) meet any applicable licensing  
6687 requirements; and (iii) pay a one-time \$500,000 fee to the Authority. No later than July 1, 2026, the  
6688 Authority shall create a streamlined application process for such industrial hemp processors or  
6689 growers to apply for such licenses.

6690 7. That the Virginia Cannabis Control Authority (the Authority) may, on and after, July 1, 2026, begin  
6691 accepting license applications from all applicants and issuing licenses pursuant to the provisions of  
6692 § 4.1-1000 of the Code of Virginia, as created by this act.

6693 8. That in addition to the 100 microbusiness licenses required to be issued by November 1, 2026,  
6694 pursuant to the fourth enactment of this act, by December 1, 2026, the Virginia Cannabis Control  
6695 Authority (the Authority) shall have (i) verified the pharmaceutical processors' dual-use privileges as  
6696 required by the fifth enactment of this act; (ii) issued no more than five marijuana cultivation facility  
6697 licenses and no more than five marijuana processing facility licenses to industrial hemp growers or  
6698 processors as required by the sixth enactment of this act; and (iii) issued at least 55 additional licenses  
6699 in total distributed among impact licensees, tier I marijuana cultivation facilities, and tier II marijuana  
6700 cultivation facilities.

6701 9. Notwithstanding the third enactment of this act, any applicant issued a license by the Authority or  
6702 pharmaceutical processor who the Board has verified may exercise dual-use privileges may operate in  
6703 accordance with the provisions of this act prior to January 1, 2027; however, prior to January 1, 2027,  
6704 no licensee may engage in the retail sale of marijuana, marijuana products, immature marijuana

6705 plants, or marijuana seeds, unless such licensee is a pharmaceutical processor or cannabis dispensing  
6706 facility and is acting in accordance with the provisions of Chapter 16 (§ 4.1-1600 et seq.) of the Code of  
6707 Virginia. Notwithstanding any other provision of law, on or after July 1, 2026, and prior to January 1,  
6708 2027, no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana  
6709 transporter licensee, marijuana delivery operator, retail marijuana store licensee, microbusiness  
6710 licensee, marijuana testing facility licensee, or agent or employee thereof shall be subject to arrest or  
6711 prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or  
6712 § 18.2-248, 18.2-248.1, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4  
6713 of the Code of Virginia, as amended by this act, involving marijuana if such violation is related to acts  
6714 committed within the scope of the permit, licensure, or employment and in accordance with the  
6715 provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia) and this enactment.  
6716 By no later than January 1, 2027, the Board shall have promulgated regulations governing outdoor  
6717 growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act.

6718 10. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-  
6719 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by September 1, 2026.

6720 11. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits  
6721 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze  
6722 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility  
6723 licensees, and (iii) report its finding to the General Assembly by November 1, 2026. The Authority shall  
6724 continue such analysis and submit updated findings to the General Assembly for two years after such  
6725 initial report and shall submit such updated findings by November 1 during the two subsequent years.

6726 12. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall  
6727 promulgate regulations to implement the provisions of this act by September 1, 2026. With the  
6728 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process  
6729 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant  
6730 thereto shall apply to the Board's initial adoption of such regulations.

6731 13. That, from July 1, 2026, to July 1, 2027, the Virginia Cannabis Control Authority (the Authority)  
6732 shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into  
6733 the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as  
6734 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license  
6735 fees.

6736 14. That the provisions of the first enactment of this act amending subsection B of § 4.1-614 of the Code  
6737 of Virginia, as amended by this act, shall become effective July 1, 2028.

6738 15. That the Joint Commission to Oversee the Transition of the Commonwealth into a Cannabis Retail  
6739 Market (the Joint Commission) shall consider and make recommendations on (i) the establishment and  
6740 implementation of (a) on-site consumption licenses allowing adults to use cannabis on the premises of a  
6741 licensed marijuana establishment and (b) microbusiness cannabis event permits allowing  
6742 microbusiness licensees to hold temporary age-restricted sales events at approved venues such as  
6743 farmers markets or pop-up locations where such licensees may sell marijuana or marijuana products  
6744 directly to consumers outside of their licensed premises and (ii) the benefits, limitations, and feasibility  
6745 of the Virginia Alcoholic Beverage Control Authority's involvement in the enforcement of laws and  
6746 regulations related to the cannabis retail market in the Commonwealth. The Joint Commission shall  
6747 report its findings and recommendations to the Chairs of the House Committee on General Laws and  
6748 the Senate Committee on Rehabilitation and Social Services by November 1, 2026.

6749 16. That the Virginia Department of Education (the Department), with assistance from the Virginia  
6750 Cannabis Control Authority (the Authority) and other appropriate agencies, local school divisions, and  
6751 appropriate experts, shall implement a plan to ensure that teachers have access to sufficient  
6752 information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use  
6753 among the youth and about substance abuse, as provided in the 2025 Health Standards of Learning.  
6754 The Department shall (i) review resources currently provided to teachers to determine if additional or  
6755 updated material or lesson ideas are needed and (ii) provide or develop any additional materials and  
6756 resources deemed necessary and make the same available to teachers by January 1, 2027.

6757 17. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall  
6758 develop a plan for introducing teachers, particularly those teaching health, to the information and  
6759 resources available to them to assist them in teaching the 2025 Health Standards of Learning as it  
6760 relates to marijuana use. Such plan shall include providing professional development webinars as soon  
6761 as practicable, as well as ongoing periodic professional development relating to marijuana, as well as  
6762 alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of  
6763 implementation and any potential source of funds to cover such cost and shall be submitted to the  
6764 Governor and the General Assembly by November 1, 2026.

6765 18. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia  
6766 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and  
6767 Developmental Services shall work with existing collegiate recovery programs to determine what, if  
6768 any, additional evidence-based efforts should be undertaken for college-age individuals to promote  
6769 education and prevention strategies relating to marijuana. The plan shall include the estimated cost of  
6770 implementation and any potential source of funds to cover such cost and shall be submitted to the  
6771 Governor and the General Assembly by November 1, 2026.

6772 19. That the provisions of this act may result in a net increase in periods of imprisonment or  
6773 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
6774 appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities; therefore,  
6775 Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to  
6776 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the  
6777 estimated amount of the necessary appropriation is \_\_\_\_\_ for periods of commitment to the custody  
6778 of the Department of Juvenile Justice.