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SENATE BILL NO. 620

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations on February 11, 2026)

(Patron Prior to Substitute—Senator Ebbin)

A BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-254, and by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-368; and to repeal §§ 58.1-1021.06 through 58.1-1021.09 and Chapter 23.2 (§§ 59.1-293.10 through 59.1-293.22) of Title 59.1 of the Code of Virginia, relating to Virginia Alcoholic Beverage Control Authority; permitting of retail tobacco product retailers; purchase, possession, and sale of retail tobacco products; penalties; report.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-254, and by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-368, as follows:

§ 4.1-100. Definitions.

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

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

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

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

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

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

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

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

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

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

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

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless internet services, (v) is equipped

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60 with charging stations at every seat for cellular phones or other portable devices, and (vi) during the
61 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in
62 this subtitle or Board regulation.

63 *"Child-resistant packaging" means packaging that is designed or constructed to meet the child-resistant*
64 *effectiveness standards set forth in 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the protocols*
65 *described in 16 C.F.R. § 1700.20 as in effect on July 1, 2015.*

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

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

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

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

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

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

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

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

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

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

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

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

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

122 "Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned
 123 agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural
 124 products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219,
 125 and (b) facilities for fermenting and bottling wine on the premises where such farm winery manufactures
 126 wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private
 127 institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the
 128 wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
 129 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and
 130 apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance
 131 with the requirements of this clause (ii) and Board regulations. As used in this definition, the term
 132 "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing
 133 wine. In determining whether a cooperative licensed as a farm winery has met the requirements set forth in
 134 clause (i), the Board shall consider all land in the Commonwealth that is owned or leased by a member of the
 135 cooperative. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural
 136 district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
 137 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the
 138 limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall
 139 otherwise limit or affect local zoning authority.

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

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

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

155 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
 156 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers
 157 of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to
 158 persons.

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

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

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

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

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

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

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

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

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

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

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

181 "*Liquid nicotine container*" means a bottle or other container holding liquid nicotine in any concentration
 182 but does not include a cartridge containing liquid nicotine if such cartridge is prefilled and sealed by the
 183 manufacturer of such cartridge and is not intended to be opened by the consumer.

184 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by
185 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed
186 with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit
187 adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or
188 fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that
189 low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the
190 Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

307 *"Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association,*

308 *organization, or corporation that owns, operates, or manages any retail tobacco establishment. "Tobacco*
309 *retailer" does not include nonmanagement employees of a retail tobacco establishment.*

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

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

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

326 **§ 4.1-103. General powers of Board.**

327 The Board shall have the power to:

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

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

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

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

336 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
337 investment bankers, superintendents, managers, and such other employees and special agents as may be
338 necessary and fix their compensation to be payable from funds made available to the Authority. Legal
339 services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500
340 et seq.) of Title 2.2;

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

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

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

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

362 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
363 2.2;

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

367 12. Buy and sell any mixers;

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

370 (clothing);

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

372 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or

373 operated and the location of such stores;

374 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic

375 beverages to and from such warehouses;

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

377 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the

378 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,

379 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to

380 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time

381 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms

382 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or

383 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such

384 terms and conditions as may be determined by the Board; and occupy and improve any land or building

385 required for the purposes of this subtitle;

386 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered

387 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and

388 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic

389 beverages;

390 19. Determine the nature, form, and capacity of all containers used for holding alcoholic beverages to be

391 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;

392 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline

393 alcohol;

394 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds

395 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of

396 experts and professionals;

397 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production

398 of records, memoranda, papers, and other documents before the Board or any agent of the Board; and

399 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the

400 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and

401 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may

402 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement

403 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such

404 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A

405 consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial

406 review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by

407 the Board in future disciplinary proceedings;

408 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to

409 persons other than (i) officials, including court and police officials, of the Commonwealth and of its

410 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal

411 interest in obtaining the information requested if such information is not to be used for commercial or trade

412 purposes;

413 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and

414 § 4.1-111;

415 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale

416 of alcoholic beverages;

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

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

419 ~~26-~~ 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

420 ~~27-~~ 28. Establish minimum food sale requirements for all retail licensees;

421 ~~28-~~ 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief

422 Executive Officer as the Board deems appropriate;

423 ~~29-~~ 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement

424 activities undertaken to enforce the provisions of this subtitle;

425 ~~30-~~ 31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with

426 applications for such permits;

427 ~~31-~~ 32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of

428 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state

429 license fee; and

430 ~~32-~~ 33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

431 **§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.**

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

435 B. All invoices, books, papers, or other memoranda and records concerning the sale of ~~cigarettes~~
 436 ~~maintained by wholesale cigarette dealers pursuant to § 58.1-1007~~ *retail tobacco products by a tobacco*
 437 *retailer* shall be subject to inspection during normal business hours by special agents of the Board *pursuant to*
 438 *§ 4.1-253. Additionally, all invoices, books, papers, or other memoranda and records concerning the sale of*
 439 *cigarettes shall be subject to inspection during normal business hours by the Attorney General or his*
 440 *authorized representative during any audit and investigation conducted pursuant to § 3.2-4215.1.* Any person
 441 who, upon request by a special agent *or the Attorney General or his authorized representative*, unreasonably
 442 fails or refuses to allow an inspection of the records authorized by this subsection ~~shall be~~ *is* guilty of a Class
 443 2 misdemeanor.

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

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

455 **§ 4.1-204. Records of licensees and permittees; inspection of records and places of business.**

456 A. ~~Manufacturers, bottlers or wholesalers.~~ — Every licensed manufacturer, bottler, or wholesaler shall
 457 keep complete, accurate, and separate records in accordance with Board regulations of all alcoholic beverages
 458 purchased, manufactured, bottled, sold, or shipped by him, and the applicable tax required by § 4.1-234 or
 459 4.1-236, if any.

460 B. ~~Retailers.~~ — Every retail licensee *and permittee* shall keep complete, accurate, and separate records, in
 461 accordance with Board regulations, of all purchases of alcoholic beverages *or retail tobacco products*, the
 462 prices charged such licensee ~~therefor~~ *or permittee for such purchases*, and the names and addresses of the
 463 persons from whom purchased. Every retail licensee *or permittee* shall also preserve all invoices showing his
 464 purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily
 465 sales, showing quantities of alcoholic beverages *or retail tobacco products* sold and the total price charged by
 466 him therefor. Except as otherwise provided in subsection D, such account need not give the names or
 467 addresses of the purchasers ~~thereof~~, except as may be required by Board regulation for the sale of alcoholic
 468 beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their
 469 qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic
 470 beverages.

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

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

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

486 E. ~~Deliveries.~~ — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1
 487 shall keep complete, accurate, and separate records for a period of at least two years in accordance with
 488 Board regulations of all deliveries of wine and beer to persons in the Commonwealth. Such records shall
 489 include (i) the types of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price
 490 charged for such wine and beer, (iv) the name and date of birth of the person to whom the wine and beer are
 491 delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit
 492 such records on a monthly basis for any month during which the licensee or permittee makes a delivery for
 493 which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to

494 subsection E of § 4.1-212.1.

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

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

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

516 **§ 4.1-229. Suspension or revocation of permits; grounds; notice and hearing; exception.**

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

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

522 *Article 4.*

523 *Permitting and Restrictions for Tobacco Retailers.*

524 **§ 4.1-241. Retail tobacco permits; privileges; liabilities.**

525 *The Board may grant a retail tobacco permit to a tobacco retailer that shall authorize the permittee to sell*
526 *retail tobacco products in a retail tobacco establishment. The privilege of any permittee to sell retail tobacco*
527 *products shall extend to such permittee and to all agents or employees of such permittee for the purpose of*
528 *selling retail tobacco products under such permit. Such permittee may be held liable for any violation of this*
529 *article or any Board regulation committed by his agents or employees in connection with their employment.*

530 **§ 4.1-242. Separate retail tobacco permit for each place of business; transfer or amendment; posting;**
531 **expiration; carriers; civil penalties.**

532 A. *Each retail tobacco permit granted by the Board shall designate the place where such retail sales will*
533 *be located. A separate retail tobacco permit shall be required for each separate place of business. Each retail*
534 *tobacco permit shall be posted in a location conspicuous to the public at the place where such retail sales*
535 *will be located.*

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

538 C. *The privileges conferred by any retail tobacco permit granted by the Board shall continue until the last*
539 *day of the twelfth month next ensuing, except the retail tobacco permit may be sooner terminated for any*
540 *cause for which the Board would be entitled to refuse to grant a retail tobacco permit, by operation of law,*
541 *voluntary surrender, or order of the Board.*

542 *The Board may permit a permittee who fails to pay:*

543 1. *The required retail tobacco permit fee covering the continuation or reissuance of its permit by midnight*
544 *of the fifteenth day of the twelfth month following the granting of the retail tobacco permit, to pay the tax in*
545 *lieu of reapplying, provided payment of the tax is made within 30 days following that date and is*
546 *accompanied by a civil penalty of \$25 or 10 percent of such tax, whichever is greater; and*

547 2. *The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of reapplying, provided*
548 *payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is*
549 *accompanied by a civil penalty of \$100 or 25 percent of such tax, whichever is greater.*

550 *Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-116.*

551 **§ 4.1-243. Applications for retail tobacco permits; fees.**

552 A. *Every person intending to apply for a retail tobacco permit shall file with the Board an application on*
553 *a form prescribed by the Board and a statement in writing by the applicant swearing and affirming that all of*
554 *the information contained therein is true.*

555 B. *The provisions of subsection A shall not apply to the continuance of retail tobacco permits granted*

556 under this article; however, such permittees shall file and maintain with the Board a current, accurate record
 557 of the information required by the Board pursuant to subsection A and notify the Board of any changes to
 558 such information in accordance with Board regulations.

559 **§ 4.1-244. Fees on retail tobacco products.**

560 Nothing in this article shall exempt any permittee from any other tax or fee imposed by this article, state
 561 merchants' license, state restaurant license, or any other state tax. Every permittee, in addition to the taxes
 562 imposed by this article, shall be liable to state merchants' license taxation, state restaurant license taxation,
 563 and other state or local taxation applicable to retail tobacco products.

564 **§ 4.1-245. Conditions under which Board may refuse to grant retail tobacco permits.**

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

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

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

572 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the
 573 laws of any state or of the United States;

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

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

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

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

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

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

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

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

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

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

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

599 2. The place to be occupied by the applicant:

600 a. Does not conform to the requirements of the governing body of the locality in which such place is
 601 located with respect to sanitation, health, construction, or equipment, or to any similar requirements
 602 established by the laws of the Commonwealth or by Board regulation;

603 b. Is so located that granting a retail tobacco permit and operation thereunder by the applicant would
 604 result in violations of this article, Board regulations, or violation of the laws of the Commonwealth or local
 605 ordinances relating to peace and good order;

606 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or
 607 institution of higher education; public or private playground or other similar recreational facility; or state,
 608 local, or federal government-operated facility that the operation of such place under such retail tobacco
 609 permit will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or
 610 institutions;

611 d. Is so located with respect to any residence or residential area that the operation of such place under
 612 such retail tobacco permit will adversely affect real property values or substantially interfere with the usual
 613 quietude and tranquility of such residence or residential area; or

614 e. Is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the
 615 Board are prevented from ready access to and reasonable observation of any room or area within which
 616 retail tobacco products are to be sold.

617 3. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political

618 subdivision thereof that warrants refusal by the Board to grant a retail tobacco permit.

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

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

622 6. Investigators with the Office of the Attorney General seized cigarette inventory, as authorized by
623 § 2.2-509.1, from the applicant during the prior year.

624 **§ 4.1-246. Conditions under which Board shall refuse to grant retail tobacco permits.**

625 The Board shall refuse to grant any retail tobacco permit authorized by this article until the retail tobacco
626 permit fee required by § 4.1-244 is paid to the Board.

627 **§ 4.1-247. Notice and hearings for refusal to grant retail tobacco permits; Administrative Process Act;**
628 **exceptions.**

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

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

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

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

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

642 4. Applicant received a restricted retail tobacco permit pursuant to subsection C of § 4.1-252 and
643 reapplies for a lesser-restricted retail tobacco permit at the same location within 12 months of the date of the
644 issuance of the restricted retail tobacco permit.

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

650 **§ 4.1-248. Grounds for which Board may suspend or revoke retail tobacco permits.**

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

652 1. The permittee, or if the permittee is a partnership, any general partner thereof, or if the permittee is an
653 association, any member thereof, or any limited partner of 10 percent or more with voting rights, or if the
654 permittee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
655 stock, or if the permittee is a limited liability company, any member-manager or any member owning 10
656 percent or more of the membership interest of the limited liability company:

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

658 b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-250,
659 has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth, of any
660 locality in the Commonwealth, of any state, or of the United States applicable to the manufacture,
661 transportation, possession, use, or sale of retail tobacco products; (ii) violated any provision of this article;
662 (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; (iv) failed or
663 refused to comply with any of the conditions or restrictions of the retail tobacco permit granted by the Board;
664 or (v) violated, failed, or refused to comply with Article 4 (§ 4.1-355 et seq.) of Chapter 3;

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

667 d. Is not the legitimate owner of the business conducted under the retail tobacco permit granted by the
668 Board, or other persons have ownership interests in the business that have not been disclosed;

669 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
670 conducted under the retail tobacco permit granted by the Board;

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

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

675 h. Is physically unable to carry on the business conducted under such retail tobacco permit or has been
676 adjudicated incapacitated;

677 i. Has possessed any illegal gambling device, as defined in § 18.2-325, upon the permitted premises;

678 j. Has upon the permitted premises (i) illegally possessed, distributed, sold, or used or has knowingly
679 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana,

680 controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as
 681 those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title
 682 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or
 683 (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or
 684 the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the
 685 operation of the permitted business that facilitates the commission of any of the offenses set forth herein;

686 k. Has failed to take reasonable measures to prevent (i) the permitted premises, (ii) any premises
 687 immediately adjacent to the permitted premises that are owned or leased by the permittee, or (iii) any portion
 688 of public property immediately adjacent to the permitted premises from becoming a place where patrons of
 689 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1
 690 (§ 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.),
 691 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
 692 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
 693 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
 694 violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to
 695 public safety; or

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

700 2. The place occupied by the permittee:

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

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

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

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

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

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

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

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

723 8. Any other cause authorized by this article.

724 **§ 4.1-249. Grounds for which Board shall suspend or revoke retail tobacco permits.**

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

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

729 2. A permittee has defrauded or attempted to defraud the Board or any federal, state, or local government
 730 or governmental agency or authority by making or filing any report, document, or tax return required by
 731 statute or regulation that is fraudulent or contains a willfully or knowingly false representation of a material
 732 fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or
 733 governmental agency or authority by making or maintaining business records required by statute or
 734 regulation that are false or fraudulent.

735 **§ 4.1-250. Suspension or revocation of retail tobacco permits; notice and hearings; imposition of**
 736 **penalties.**

737 A. 1. Except for temporary retail tobacco permits issued pursuant to § 4.1-252, before the Board may
 738 impose a civil penalty or suspend or revoke any retail tobacco permit, reasonable notice of such proposed or
 739 contemplated action shall be given to the permittee in accordance with the provisions of § 2.2-4020.

740 2. Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the permittee,
 741 permit the permittee to inspect and copy or photograph all (i) written or recorded statements made by the

742 permittee or copies thereof or the substance of any oral statements made by the permittee or a previous or
 743 present employee of the permittee to any law-enforcement officer, the existence of which is known by the
 744 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
 745 chapter against the permittee and (ii) designated books, papers, documents, tangible objects, buildings, or
 746 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
 747 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against
 748 the permittee. In addition, any subpoena for the production of documents issued to any person at the request
 749 of the permittee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought
 750 within 10 working days, notwithstanding anything to the contrary in § 4.1-103.

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

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

761 B. In suspending any retail tobacco permit, the Board may impose, as a condition precedent to the
 762 removal of such suspension or any portion thereof, a requirement that the permittee pay the cost incurred by
 763 the Board in investigating the permittee and in holding the proceeding resulting in such suspension, or it may
 764 impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil
 765 penalty exceeding \$2,000 for the first violation occurring within the five years immediately preceding the
 766 date of the violation or \$5,000 for the second violation occurring within the five years immediately preceding
 767 the date of the second violation. However, if the violation involved selling retail tobacco products to a person
 768 prohibited from purchasing such retail tobacco products, the Board may impose a civil penalty not to exceed
 769 \$3,000 for the first violation occurring within the five years immediately preceding the date of the violation
 770 and \$6,000 for a second violation occurring within the five years immediately preceding the date of the
 771 second violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a
 772 requirement that the permittee pay for the cost incurred by the Board, not to exceed \$25,000, in investigating
 773 the permittee and in holding the proceeding resulting in the violation in addition to any suspension or civil
 774 penalty incurred.

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

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

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

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

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

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

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

797 **§ 4.1-251. Suspension or revocation; disposition of retail tobacco products on hand; termination.**

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

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

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

802 3. Upon retail tobacco permits granted by the Board and conditions specified by the Board, sold to
 803 persons outside the Commonwealth for resale outside the Commonwealth upon retail tobacco permits

804 granted by the Board.

805 B. Upon retail tobacco permits granted by the Board and upon payment of any excise tax due thereon,
806 retail tobacco products owned and in possession of, or either, or for sale by, any permittee at the time the
807 retail tobacco permit of such permittee is suspended or revoked may be sold to any person authorized to
808 purchase the same for resale.

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

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

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

819 **§ 4.1-252. Continuation of permittee operations in certain instances; temporary retail tobacco permits.**

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

821 1. Any person who (i) purchases at a foreclosure, secured creditor's, or judicial auction sale the premises
822 or property of a permittee or (ii) has become lawfully entitled to the possession of the permitted premises to
823 continue to operate the retail tobacco establishment to the same extent as a permittee for a period not to
824 exceed 60 days or for such longer period as determined by the Board. Such retail tobacco permit shall be
825 temporary and shall confer the privileges of any retail tobacco permits held by the previous owner to the
826 extent determined by the Board. Such temporary retail tobacco permit may be issued in advance, conditioned
827 on the above requirements.

828 2. Any person who, through contract, lease, concession, license, management or similar agreement
829 (collectively, the contract), becomes lawfully entitled to the use and control of the premises of a permittee to
830 continue to operate the retail tobacco establishment to the same extent as a permittee, provided such person
831 has made application to the Board for a retail tobacco permit at the same premises. The temporary retail
832 tobacco permit shall (i) confer the privileges of any retail tobacco permits held by the previous owner to the
833 extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be
834 necessary as determined by the Board pending the completion of the processing of the temporary permittee's
835 retail tobacco permit application. No temporary retail tobacco permit shall be issued without the written
836 consent of the previous permittee. No temporary retail tobacco permit shall be issued under the provisions of
837 this subdivision if the previous permittee owes any state or local taxes, or has any pending charges for
838 violation of this article or any Board regulation, unless the temporary permittee agrees to assume the liability
839 of the previous permittee for the taxes or any penalty for the pending charges. An application for a temporary
840 retail tobacco permit may be filed prior to the effective date of the contract, in which case the temporary
841 retail tobacco permit, when issued, shall become effective on the effective date of the contract. Upon the
842 effective date of the temporary retail tobacco permit, (a) the temporary permittee shall be responsible for
843 compliance with the provisions of this article and any Board regulation and (b) the previous permittee shall
844 not be held liable for any violation of this article or any Board regulation committed by, or any errors or
845 omissions of, the temporary permittee.

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

850 C. The decision to refuse to grant a temporary retail tobacco permit shall not be subject to a hearing. A
851 temporary retail tobacco permit may be revoked summarily by the Board for any cause set forth in § 4.1-248
852 without complying with subsection A of § 4.1-250. Revocation of a temporary retail tobacco permit shall be
853 effective upon service of the order of revocation upon the temporary permittee or upon the expiration of three
854 business days after the order of the revocation has been mailed to the temporary permittee at either his
855 residence or the address given for the business in the application. No further notice shall be required.

856 **§ 4.1-253. Records of certain permittees; audits, inspections, and investigations; penalties.**

857 A. Every permittee that receives, stores, sells, handles, or transports liquid nicotine or nicotine vapor
858 products shall preserve all invoices, books, papers, canceled checks, or other documents relating to the
859 purchase, sale, exchange, receipt, or transportation of all liquid nicotine or nicotine vapor products for a
860 period of three years. All such invoices, books, papers, canceled checks, or other documents shall be subject
861 to audit or inspection at any time by any duly authorized representative of the Attorney General.

862 B. Any person who violates the provisions of subsection A is guilty of a Class 2 misdemeanor.

863 C. The Department of Taxation shall impose a penalty of \$1,000 for each day that a person fails or
864 refuses to allow or cooperate with an audit, inspection, or investigation of such records. Such penalty shall
865 be collected as other taxes are collected. Upon a person's refusal to cooperate with an audit, inspection, or

866 investigation, the Attorney General may apply to the Circuit Court for the City of Richmond for injunctive
867 relief.

868 D. The Department of Taxation, the Attorney General, any other law-enforcement agency of the
869 Commonwealth, or any federal law-enforcement agency conducting a criminal investigation involving the
870 trafficking of liquid nicotine or nicotine vapor products may access at any time the records required to be
871 preserved by this section. Copies of such records shall be provided to such officials or agencies upon request.
872 Any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the
873 provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such records if relevant to any
874 proceedings therein. Such records shall be exempt from disclosure under the Virginia Freedom of
875 Information Act (§ 2.2-3700 et seq.). Investigators of the Attorney General may accompany and participate
876 with other law-enforcement officials engaging in enforcement action relating to such trafficking.

877 **§ 4.1-254. Retail Tobacco Enforcement Fund.**

878 There is hereby created in the state treasury a special nonreverting fund to be known as the Retail
879 Tobacco Enforcement Fund, referred to in this section as "the Fund." The Fund shall be established on the
880 books of the Comptroller. All revenues accruing to the Fund pursuant to this article, all funds appropriated
881 for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be
882 paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in
883 the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of
884 each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall
885 be used solely for the purposes of funding the Authority's direct and indirect costs of tobacco retail permit
886 administration; enforcement program, including unannounced compliance checks; and administrative costs
887 pursuant to this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer
888 on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the
889 Authority.

890 Article 4.

891 Retail Tobacco Products.

892 **§ 4.1-355. Illegal sale of retail tobacco products in general; penalty.**

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

896 **§ 4.1-356. Packaging of certain retail tobacco products; civil penalty.**

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

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

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

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

909 **§ 4.1-357. Sale or distribution of liquid nicotine container; prohibition; penalty.**

910 A. No person shall sell or distribute at retail or offer for retail sale or distribution a liquid nicotine
911 container in the Commonwealth unless such liquid nicotine container meets child-resistant packaging
912 standards.

913 B. Any person who sells or distributes at retail or offers for retail sale or distribution a liquid nicotine
914 container in the Commonwealth that he knows or has reason to know does not satisfy the child-resistant
915 packaging standards required by this section is guilty of a Class 4 misdemeanor. However, no person shall
916 be guilty of a violation of this section who relies in good faith on any information provided by the
917 manufacturer of a liquid nicotine container that such container meets the requirements of this section.

918 C. The provisions of this article do not apply to any manufacturer or wholesaler of liquid nicotine
919 containers who sells or distributes a liquid nicotine container, provided that any such liquid nicotine
920 container sold or distributed is intended for use outside of the Commonwealth.

921 D. The provisions of subsection A shall be null, void, and of no force and effect upon the effective date of
922 either enacted federal legislation or final regulations issued by the U.S. Food and Drug Administration or by
923 any other federal agency where such legislation or regulations mandate child-resistant packaging for liquid
924 nicotine containers.

925 E. The provisions of this section with respect to retail sales, retail establishments, and offers for retail
926 sales shall only apply to retail sales or offers at retail of liquid nicotine containers before July 1, 2024.

927 **§ 4.1-358. Purchase of retail tobacco products from person not authorized to sell; penalty.**

928 Any person who buys retail tobacco products from any person other than a permittee authorized under
929 this subtitle is guilty of a Class 1 misdemeanor.

930 **§ 4.1-359. Persons to whom retail tobacco products may not be sold; proof of legal age; civil penalty.**

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

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

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

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

949 C. A violation of subsection A or B by an individual is punishable by a civil penalty in the amount of \$500
950 for a first violation and a civil penalty in the amount of \$2,500 for a second or subsequent violation within a
951 three-year period. Such civil penalty shall not preclude the Board from taking administrative action against a
952 permittee for the conduct of his agent or employee who violates subsection A or B. If applicable, upon a
953 second or subsequent violation within a three-year period, the Board may suspend or revoke any retail
954 tobacco permit issued pursuant to this subtitle.

955 **§ 4.1-360. Prohibiting possession of retail tobacco products by a person younger than 21 years of age;**
956 **seizure.**

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

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

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

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

973 **§ 4.1-361. Purchasing retail tobacco products for person to whom they may not be sold; penalty;**
974 **forfeiture.**

975 A. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
976 tobacco products to another person, when he knows or has reason to know that such person is younger than
977 21 years of age, except (i) where possession of the retail tobacco products by a person younger than 21 years
978 of age is due to such person's making a delivery of retail tobacco products in pursuance of his employment or
979 (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to
980 further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation,
981 provided that such medical research has been approved by an institutional review board pursuant to
982 applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et
983 seq.) of Title 32.1. This subsection shall not apply to the possession of any retail tobacco product by a law-
984 enforcement officer or his agent when the same is necessary in the performance of his duties.

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

988 C. Any retail tobacco products purchased or possessed in violation of this section shall be deemed
989 contraband and may be seized by a law-enforcement officer. Any such retail tobacco product, the lawful

990 possession of which is not established, seized by such officer shall be forfeited and disposed of according to
 991 the process described in subdivision A 2 of § 19.2-386.23.

992 **§ 4.1-362. Liquid nicotine and nicotine vapor product; directory.**

993 The Attorney General shall establish and maintain a directory that lists all liquid nicotine or nicotine
 994 vapor product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate
 995 certification forms have been submitted in accordance with the provisions of § 4.1-363. The Attorney General
 996 shall make the directory available for public inspection on its website. The Attorney General shall update the
 997 directory as necessary.

998 **§ 4.1-363. Liquid nicotine and nicotine vapor product; certification; penalty.**

999 A. By December 31, 2026, and annually thereafter, every manufacturer of liquid nicotine or nicotine
 1000 vapor products that are sold for retail sale in the Commonwealth, whether directly or through a wholesaler,
 1001 distributor, tobacco retailer, or similar intermediary, shall certify in a form and manner as prescribed by the
 1002 Attorney General that the manufacturer agrees to comply with the provisions of this article and that:

1003 1. The manufacturer has received a marketing authorization or similar order for the liquid nicotine or
 1004 nicotine vapor product from the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j; or

1005 2. The liquid nicotine or nicotine vapor product was marketed in the United States as of August 8, 2016,
 1006 or the manufacturer submitted a premarket tobacco product application for the liquid nicotine or nicotine
 1007 vapor product to the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j on or before
 1008 September 9, 2020 and the application either remains under review by the U.S. Food and Drug
 1009 Administration or a final decision on the application has not otherwise taken effect.

1010 B. A manufacturer of liquid nicotine or nicotine vapor products shall submit a certification form for each
 1011 liquid nicotine and nicotine vapor product that such manufacturer sells for retail sale in the Commonwealth.

1012 C. Each certification form shall be accompanied by:

1013 1. A copy of the marketing authorization or other order for each liquid nicotine or nicotine vapor product
 1014 issued by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j or evidence that the
 1015 premarket tobacco product application for the liquid nicotine or nicotine vapor product was submitted to the
 1016 U.S. Food and Drug Administration and a final authorization or order has not yet taken effect;

1017 2. A fee of \$2,000 for each liquid nicotine and nicotine vapor product, to be remitted with the
 1018 manufacturer's first certification submission that identifies any such product and with any resubmission of a
 1019 certification for any such product following any period of noncertified status; and

1020 3. A fee of \$500 to be submitted annually for each liquid nicotine and nicotine vapor product to be
 1021 remitted with the manufacturer's annual recertification submission identifying any liquid nicotine or nicotine
 1022 vapor product, where such recertification does not follow any period of noncertified status.

1023 D. A manufacturer required to submit a certification pursuant to this section shall notify the Attorney
 1024 General within 30 days of any material change to the certification form, including the issuance or denial of a
 1025 marketing authorization or other order or action by the U.S. Food and Drug Administration pursuant to 21
 1026 U.S.C. § 387j or any other order or action by the U.S. Food and Drug Administration that affects the ability
 1027 of the liquid nicotine or nicotine vapor product to be introduced or delivered into interstate commerce for
 1028 commercial distribution in the United States.

1029 E. Any manufacturer that falsely represents any of the information required by this section is guilty of a
 1030 Class 3 misdemeanor for each false representation. Venue for prosecution of a violation of this subsection
 1031 shall be proper in the Circuit Court for the City of Richmond.

1032 **§ 4.1-364. Removal or exclusion from liquid nicotine or nicotine vapor product directory.**

1033 A. The Attorney General shall, in accordance with the provisions of this section, remove or exclude from
 1034 the directory any liquid nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor
 1035 product that the Attorney General determines is not in compliance with the provisions of this article.

1036 B. If the Attorney General determines to remove or exclude from the directory a liquid nicotine or nicotine
 1037 vapor product manufacturer or a liquid nicotine or nicotine vapor product in the directory, the Attorney
 1038 General shall notify, by electronic or other practicable means, the manufacturer's registered agent in the
 1039 Commonwealth of such determination. The liquid nicotine or nicotine vapor product manufacturer shall have
 1040 10 business days from receipt of such notice to establish that the liquid nicotine or nicotine vapor product
 1041 manufacturer or liquid nicotine or nicotine vapor product meets the requirements to be included in the
 1042 directory. If the liquid nicotine or nicotine vapor product manufacturer fails to establish compliance within
 1043 the 10-business-day period, the Attorney General shall remove or exclude from the directory the liquid
 1044 nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor product.

1045 C. Any determination by the Attorney General to remove or exclude from the directory a manufacturer or
 1046 a product shall be subject to review by the filing of a civil action for prospective declaratory or injunctive
 1047 relief in the Circuit Court for the City of Richmond.

1048 D. If a liquid nicotine or nicotine vapor product is removed from the directory:

1049 1. Each tobacco retailer shall have 30 days to sell the product or remove such product intended for retail
 1050 sale in the Commonwealth from its inventory and return the product to the manufacturer for disposal. After
 1051 21 days following the removal from the directory, the liquid nicotine and nicotine vapor products removed

1052 *from the directory shall be subject to seizure, forfeiture, and destruction and shall not be purchased or sold*
1053 *in the Commonwealth.*

1054 2. *Each manufacturer, wholesaler, or retail dealer selling the product intended for retail sale in the*
1055 *Commonwealth shall notify each purchaser of the product that it has been removed from the directory at the*
1056 *time of delivery of such product. Unless otherwise provided by contract or purchase agreement, the*
1057 *manufacturer, wholesaler, or retail dealer shall provide the purchaser a refund of the purchase price of the*
1058 *removed product. If a manufacturer, wholesaler, or retail dealer fails to provide such refund, the purchaser*
1059 *may bring an action against the manufacturer, wholesaler, or retail dealer in a court of competent*
1060 *jurisdiction to recover the purchase price and reasonable attorney fees and costs.*

1061 **§ 4.1-365. Agent for service of process; liquid nicotine or nicotine vapor product directory.**

1062 A. *Any nonresident manufacturer of liquid nicotine or nicotine vapor products that has not registered to*
1063 *do business in the Commonwealth as a foreign corporation or business entity shall, as a condition precedent*
1064 *to being included in the directory established by the Attorney General pursuant to § 4.1-362, appoint and*
1065 *continually engage without interruption the services of an agent in the Commonwealth to act as agent for the*
1066 *service of process in any action or proceeding against such nonresident manufacturer concerning or arising*
1067 *out of the enforcement of this article, and such nonresident manufacturer may be served in any manner*
1068 *authorized by law. Such service shall constitute legal and valid service of process on the nonresident*
1069 *manufacturer. The nonresident manufacturer shall provide the name, address, telephone number, and proof*
1070 *of the appointment and availability of such agent to the Attorney General.*

1071 B. *The nonresident manufacturer shall provide notice to the Attorney General 30 calendar days prior to*
1072 *termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney*
1073 *General of the appointment of a new agent no less than five calendar days prior to the termination of an*
1074 *existing agent appointment. In the event an agent terminates an agency appointment, the nonresident*
1075 *manufacturer shall notify the Attorney General of the termination within five calendar days and shall include*
1076 *proof to the satisfaction of the Attorney General of the appointment of a new agent.*

1077 C. *Any nonresident manufacturer whose liquid nicotine or nicotine vapor products are sold in the*
1078 *Commonwealth who has not appointed and engaged the services of an agent as required by this section shall*
1079 *be deemed to have appointed the Secretary of the Commonwealth as its agent for service of process. The*
1080 *appointment of the Secretary of the Commonwealth as agent shall not satisfy the condition precedent to be*
1081 *included in the directory required in subsection A.*

1082 **§ 4.1-366. Sale or distribution of liquid nicotine or nicotine vapor product prohibited.**

1083 A. *Beginning December 31, 2026, no person shall sell, distribute or import for resale, or offer for sale a*
1084 *liquid nicotine or nicotine vapor product for retail sale in the Commonwealth unless such liquid nicotine or*
1085 *nicotine vapor product is included in the directory established by the Attorney General pursuant to § 4.1-362.*

1086 B. *Beginning December 31, 2025, no liquid nicotine or nicotine vapor product manufacturer shall sell for*
1087 *retail sale, either directly or through a wholesaler, distributor, retailer, or similar intermediary or*
1088 *intermediaries, a liquid nicotine or nicotine vapor product in the Commonwealth unless such liquid nicotine*
1089 *or nicotine vapor product is included in the directory established by the Attorney General pursuant to § 4.1-*
1090 *362.*

1091 C. *Any person that violates the provisions of subsection A is subject to a fine of \$1,000 per day for each*
1092 *product offered for sale in violation until the offending product is removed from the market or until the*
1093 *offending product is properly listed in the directory.*

1094 D. *A liquid nicotine or nicotine vapor product manufacturer that violates the provisions of subsection B is*
1095 *subject to a fine of \$1,000 per day for each product offered for sale in violation until the offending product is*
1096 *removed from the market or until the offending product is properly listed in the directory.*

1097 E. *Each retailer shall have 60 days from the date that the Attorney General first makes the directory*
1098 *available for inspection on its public website to sell any products that were in its inventory and not included*
1099 *in the directory or to remove from inventory and return such products to the manufacturer for disposal.*

1100 F. *Each distributor or wholesaler shall have 60 days from the date that the Attorney General first makes*
1101 *the directory available for inspection on its public website to remove any products intended for sale in the*
1102 *Commonwealth from its inventory and return such products to the manufacturer for disposal.*

1103 G. *In an action brought under this section, the attorney for the Commonwealth or the attorney for the*
1104 *locality may recover reasonable costs of investigation, the costs of the action, and attorney fees.*

1105 H. *Any civil penalties assessed under this section in an action brought in the name of a locality shall be*
1106 *paid into the general fund of the locality.*

1107 I. *All fees collected by the Attorney General pursuant to this section shall be used for the administration*
1108 *and enforcement of §§ 4.1-362 through 4.1-366.*

1109 **§ 4.1-367. Liquid nicotine or nicotine vapor products; enforcement; inspection.**

1110 A. *Notwithstanding any other provisions of law to the contrary, any attorney for the Commonwealth or*
1111 *the attorney for any locality may cause an action to be brought in the appropriate circuit court in the name of*
1112 *the Commonwealth or of the locality to enjoin any violation of §§ 4.1-362 through 4.1-366. The circuit court*
1113 *having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law.*

1114 *In any action under §§ 4.1-362 through 4.1-366, it shall not be necessary that damages be proved.*

1115 *B. The circuit courts are authorized to (i) issue temporary or permanent injunctions to restrain and*
1116 *prevent violations of §§ 4.1-362 through 4.1-366 and (ii) order forfeiture of any property seized for a*
1117 *violation of §§ 4.1-362 through 4.1-366.*

1118 *C. Each violation of §§ 4.1-362 through 4.1-366 shall constitute a separate violation and shall be subject*
1119 *to any penalties imposed.*

1120 **§ 4.1-368. Liquid nicotine and nicotine vapor product; report.**

1121 *The Attorney General shall provide an annual report on or before January 31 to the General Assembly*
1122 *regarding the status of the directory, manufacturers and products included in the directory, revenues and*
1123 *expenditures related to the administration of §§ 4.1-362 through 4.1-367, and enforcement activities*
1124 *undertaken pursuant to §§ 4.1-362 through 4.1-367.*

1125 **§ 15.2-912.4. Regulation of retail tobacco, nicotine, and hemp product retail sale locations.**

1126 *Any locality may, by ordinance, regulate the a retail sale locations of retail tobacco products*
1127 *establishment, as such term is defined in § 18.2-371.2 4.1-100, or retail sale location of hemp products*
1128 *intended for smoking, as such term is defined in § 3.2-4112, for any such retail sale location and may prohibit*
1129 *a retail sale such establishment or location on property within 1,000 linear feet of a child day center as*
1130 *defined in § 22.1-289.02 or a public, private, or parochial school. An ordinance adopted pursuant to this*
1131 *section shall not affect (i) a licensee holding a valid license under § 4.1-206.3 or (ii) any retail sale location of*
1132 *retail tobacco products establishment or the retail sale location of hemp products intended for smoking*
1133 *operating before July 1, 2024.*

1134 **§ 18.2-246.8. Age verification requirements.**

1135 *A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless*
1136 *prior to the first delivery sale to a consumer such person:*

1137 *1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the*
1138 *consumer is at least the legal minimum purchase age and (ii) a statement signed by the prospective consumer*
1139 *in writing that certifies the prospective consumer's address and that the consumer is at least 21 years of age.*
1140 *Such statement shall also confirm (a) that the prospective consumer understands that signing another person's*
1141 *name to such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum*
1142 *purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum*
1143 *purchase age is illegal under the laws of the Commonwealth;*

1144 *2. Makes a good faith effort to verify the information contained in the certification provided by the*
1145 *prospective consumer pursuant to subdivision 1 against a commercially available database of valid,*
1146 *government-issued identification that contains the date of birth or age of the individual placing the order, or*
1147 *obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or*
1148 *age of the individual placing the order;*

1149 *3. Provides to the prospective consumer, via email or other means, a notice that meets the requirements of*
1150 *§ 18.2-246.9; and*

1151 *4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has*
1152 *been issued in such consumer's name or by a check drawn on the consumer's account.*

1153 *B. 1. Except as provided in § 58.1-1021.06, if a purchase order for a liquid nicotine or nicotine vapor*
1154 *product, as defined in § 58.1-1021.01, is made via the Internet internet, no person shall make a delivery for*
1155 *such order unless the delivery is to a retail dealer, as defined in § 58.1-1021.01.*

1156 *2. Persons accepting purchase orders made via the Internet internet for delivery sales may request that*
1157 *prospective consumers provide their email addresses.*

1158 **§ 18.2-371.2. Prohibiting sale or distribution, etc. of hemp products intended for smoking by**
1159 **persons under 21 years of age; civil penalties.**

1160 *A. As used in this section, "hemp product" and "hemp product intended for smoking" mean the same as*
1161 *those terms are defined in § 3.2-4112.*

1162 *B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person*
1163 *younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years*
1164 *of age, any retail tobacco product or hemp product intended for smoking.*

1165 *No person shall sell retail tobacco products or hemp products intended for smoking from a vending*
1166 *machine.*

1167 *B. C. No person shall sell a retail tobacco product or hemp product intended for smoking to any individual*
1168 *who does not demonstrate, by producing a driver's license or similar photo identification issued by a*
1169 *government agency, that the individual is at least 21 years of age.*

1170 *Before a retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as*
1171 *defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the*
1172 *retail tobacco products shall verify that the consumer is of legal age by examining from any person who*
1173 *appears to be under 30 years of age a government-issued photographic identification that establishes that the*
1174 *person is of legal age or, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of*
1175 *§ 59.1-293.12, verifying the identification presented using identification fraud detection software;*

1176 technology, or a scanner that confirms the authenticity of such identification.

1177 This subsection shall not apply to mail order or ~~Internet~~ *internet* sales, provided that the person offering
 1178 the ~~retail tobacco product~~ or hemp product intended for smoking for sale through mail order or the ~~Internet~~
 1179 *internet* (i) prior to the sale of the ~~retail tobacco product~~ or hemp product intended for smoking verifies that
 1180 the purchaser is at least 21 years of age through a commercially available database that is regularly used by
 1181 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of
 1182 mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the ~~retail~~
 1183 ~~tobacco product~~ or hemp product intended for smoking will be released to the purchaser.

1184 ~~C. D.~~ A violation of subsection ~~A B~~ or ~~B C~~ by an individual or by a separate retail establishment is
 1185 punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of
 1186 \$2,500 for a second or subsequent violation within a three-year period. ~~If applicable, upon a second or~~
 1187 ~~subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any~~
 1188 ~~approved license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04-1.~~

1189 For any violation of this section by an employee of a retail establishment, (i) such penalty shall be
 1190 assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the
 1191 employee.

1192 Any attorney for the Commonwealth of the ~~county or city~~ *locality* in which an alleged violation occurred
 1193 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any
 1194 law-enforcement officer may issue a summons for a violation of subsection ~~A B~~ or ~~B C~~.

1195 ~~D. E.~~ 1. ~~Cigarettes and hemp~~ *Hemp* products intended for smoking shall be sold only in sealed packages
 1196 provided by the manufacturer, with the required health warning. The proprietor of every retail establishment
 1197 that offers for sale any ~~retail tobacco product~~ or hemp product intended for smoking shall post in a
 1198 conspicuous manner and place a sign or signs indicating that the sale of ~~retail tobacco products~~ or hemp
 1199 products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the
 1200 ~~county, city, or town~~ *locality* in which an alleged violation of this subsection occurred may enforce this
 1201 subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into
 1202 the local treasury. No filing fee or other fee or cost shall be charged to the ~~county, city, or town~~ *locality*
 1203 which instituted the action.

1204 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
 1205 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
 1206 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
 1207 such regulations.

1208 3. Any attorney for the ~~county, city, or town~~ *locality* in which an alleged violation of this subsection
 1209 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil
 1210 penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the ~~county,~~
 1211 ~~city, or town~~ *locality* which instituted the action.

1212 ~~E. F.~~ Nothing in this section shall be construed to create a private cause of action.

1213 ~~F. G.~~ Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
 1214 issue a summons for any violation of this section. ~~Additionally, any retailer selling retail tobacco products~~
 1215 ~~shall be subject to the enforcement, and compliance provisions of Chapter 23.2 (§ 59.1-293.10 et seq.) of~~
 1216 ~~Title 59.1.~~

1217 ~~G.~~ As used in this section:

1218 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized
 1219 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
 1220 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or
 1221 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of
 1222 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any
 1223 (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic
 1224 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
 1225 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination
 1226 products are authorized for sale by the U.S. Food and Drug Administration.

1227 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in
 1228 § 3.2-4112.

1229 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
 1230 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
 1231 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
 1232 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device
 1233 and any substances that may be aerosolized or vaporized by such device, whether or not the substance
 1234 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii);
 1235 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling
 1236 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that
 1237 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms

1238 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such
1239 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

1240 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for
1241 smoking in a manner similar to a cigarette or cigar.

1242 **§ 18.2-371.2:1. Prohibiting possession of hemp products intended for smoking by a person younger**
1243 **than 21 years of age; seizure.**

1244 A. No person younger than 21 years of age shall possess any ~~retail tobacco product~~ or hemp product
1245 intended for smoking, as ~~those terms are~~ *that term is* defined in § ~~18.2-371.2 3.2-4112~~. The provisions of this
1246 section shall not be applicable to the possession of ~~retail tobacco products~~ or hemp products intended for
1247 smoking by a person younger than 21 years of age (i) making a delivery of ~~retail tobacco products~~ or hemp
1248 products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being
1249 conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco
1250 use prevention and cessation and tobacco product regulation, provided that such medical research has been
1251 approved by an institutional review board pursuant to applicable federal regulations or by a research review
1252 committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the
1253 possession of any ~~retail tobacco product~~ or hemp product intended for smoking by a law-enforcement officer
1254 or his agent when the same is necessary in the performance of his duties.

1255 B. Any ~~retail tobacco product~~ or hemp product intended for smoking, as ~~those terms are~~ *that term is*
1256 defined in § ~~18.2-371.2 3.2-4112~~, possessed in violation of this section shall be deemed contraband and may
1257 be seized by a law-enforcement officer. Any such product, the lawful possession of which is not established,
1258 seized by such officer shall be forfeited and disposed of according to the process described in subdivision A 2
1259 of § 19.2-386.23.

1260 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this
1261 section.

1262 D. The provisions of this section shall not preclude prosecution under any other statute.

1263 **§ 18.2-391. Unlawful acts; penalties.**

1264 A. It ~~shall be~~ *is* unlawful for any person to sell, rent, or loan to a juvenile, knowing or having reason to
1265 know that such person is a juvenile, or to knowingly display for commercial purpose in a manner whereby
1266 juveniles may examine and peruse:

1267 1. Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or
1268 computer game, electronic file or message containing an image, or similar visual representation or image of a
1269 person or portion of the human body ~~which that~~ depicts sexually explicit nudity, sexual conduct, or
1270 sadomasochistic abuse and ~~which that~~ is harmful to juveniles, or

1271 2. Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message
1272 containing words, or sound recording ~~which that~~ contains any matter enumerated in subdivision 1 of this
1273 ~~subsection~~, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual
1274 conduct, or sadomasochistic abuse and ~~which that~~, taken as a whole, is harmful to juveniles.

1275 However, if a person uses services of an ~~Internet~~ *internet* service provider or an electronic mail service
1276 provider in committing acts prohibited under this subsection, such ~~Internet~~ *internet* service provider or
1277 electronic mail service provider shall not be held responsible for violating this subsection.

1278 B. It ~~shall be~~ *is* unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or
1279 knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show, or other
1280 presentation ~~which that~~, in whole or in part, depicts sexually explicit nudity, sexual conduct, or
1281 sadomasochistic abuse and ~~which that~~ is harmful to juveniles or to exhibit any such motion picture at any
1282 such premises ~~which that~~ are not designed to prevent viewing from any public way of such motion picture by
1283 juveniles not admitted to any such premises.

1284 C. It ~~shall be~~ *is* unlawful for any juvenile falsely to represent to any person mentioned in subsection A or
1285 ~~subsection B hereof~~, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure
1286 any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion
1287 picture, show, or other presentation, as set forth in subsection B.

1288 D. It ~~shall be~~ *is* unlawful for any person knowingly to make a false representation to any person
1289 mentioned in subsection A or ~~subsection B hereof~~ or to his agent, that he is the parent or guardian of any
1290 juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection
1291 A, or with the intent to procure such juvenile's admission to any motion picture, show, or other presentation,
1292 as set forth in subsection B.

1293 E. No person shall sell, rent, or loan any item described in subdivision A 1 or A 2 to any individual who
1294 does not demonstrate his age in accordance with the provisions of subsection ~~B C~~ of § 18.2-371.2.

1295 F. A violation of subsection A, B, C, or D is a Class 1 misdemeanor. A person or separate retail
1296 establishment who violates subsection E shall be liable for a civil penalty not to exceed \$100 for a first
1297 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for
1298 a third or subsequent violation.

1299 **§ 58.1-1021.04:1. Distributor's or remote retail seller's license; penalties.**

1300 A. 1. No person shall engage in the business of selling or dealing in tobacco products as a distributor in
1301 the Commonwealth without first having received a separate license from the Department for each location or
1302 place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed
1303 by the Department. Every application for such license shall be made on a form prescribed by the Department
1304 and the following information shall be provided on the application:

1305 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
1306 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
1307 of each of its principal officers shall be provided;

1308 b. The address of the applicant's principal place of business;

1309 c. The place or places where the business to be licensed is to be conducted; and

1310 d. Such other information as the Department may require for the purpose of the administration of this
1311 article.

1312 2. A person outside the Commonwealth who ships or transports tobacco products to retailers in the
1313 Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted
1314 such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license
1315 is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless
1316 such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601 et seq.), 10 (§ 13.1-801 et seq.),
1317 12 (§ 13.1-1000 et seq.), or 14 (§ 13.1-1200 et seq.) of Title 13.1 or Chapter 2.1 (§ 50-73.1 et seq.) or 2.2
1318 (§ 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of the State Corporation
1319 Commission as the person's agent for the purpose of service of process relating to any matter or issue
1320 involving the person and arising under the provisions of this article.

1321 The Department shall conduct a background investigation, to include a Virginia criminal history records
1322 search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged
1323 in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of
1324 Investigation if the Department deems a national criminal records search necessary, on applicants for
1325 licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may
1326 suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation,
1327 limited liability company, or business trust if it determines that the principals, managers, and other persons
1328 engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of
1329 any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny,
1330 embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted
1331 of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
1332 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application
1333 for a distributor's license to the Department, is guilty of a Class 1 misdemeanor. The Department may
1334 establish an application or renewal fee not to exceed \$750 to be retained by the Department to be applied to
1335 the administrative and other costs of processing distributor's license applications, conducting background
1336 investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of
1337 such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into
1338 the state treasury.

1339 3. No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco
1340 to consumers in the Commonwealth without (i) completing an application for and being granted a license as a
1341 remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for
1342 a dealer's certificate under § 58.1-613; (iii) if economic nexus thresholds are met, collecting and remitting the
1343 excise tax pursuant to subsection A of § 58.1-1021.02; (iv) providing for age verification through an
1344 independent, third-party age verification service that compares information available from a commercially
1345 available database, or aggregate of databases, that is regularly used by government agencies and businesses
1346 for the purpose of age and identity verification to the personal information entered by the individual during
1347 the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are
1348 met and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the
1349 remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail
1350 sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to
1351 a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

1352 B. Upon receipt of an application in proper form and payment of the required license fee, the Department
1353 shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the
1354 licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a
1355 copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be
1356 transferable to any other person. Distributor's licenses issued pursuant to this section shall be valid for a
1357 period of three years from the date of issue unless revoked by the Department in the manner provided herein.
1358 The Department may at any time revoke the license issued to any distributor who is found guilty of violating
1359 or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and
1360 promulgated under authority of this chapter. The Department shall suspend or revoke the license issued to
1361 any distributor who is found guilty of a second or subsequent violation of subsection A or B or C of

1362 § 18.2-371.2.

1363 C. 1. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor
 1364 products or shipping or transporting liquid nicotine or nicotine vapor products to retailers in the
 1365 Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the
 1366 Commonwealth without first having received a separate license from the Department for each location or
 1367 place of business, and any person who violates such prohibition shall be subject to a penalty of \$400 in
 1368 addition to any other applicable taxes or fees. Each application for a manufacturer's, distributor's, or retail
 1369 dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by
 1370 the Department. Any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for
 1371 Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued
 1372 by the Department shall not be required to obtain a license under this subsection. Every application for such
 1373 liquid nicotine and nicotine vapor products license shall be made on a form prescribed by the Department and
 1374 the following information shall be provided on the application:

1375 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1376 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
 1377 of each of its principal officers shall be provided;

1378 b. The address of the applicant's principal place of business;

1379 c. The place or places where the business to be licensed is to be conducted; and

1380 d. Such other information as the Department may require for the purpose of the administration of this
 1381 article.

1382 2. The Department shall conduct a background investigation, to include a Virginia criminal history
 1383 records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine vapor
 1384 products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the
 1385 Department deems a national criminal records search necessary, on applicants for licensure as a liquid
 1386 nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may
 1387 refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person,
 1388 partnership, corporation, limited liability company, or business trust if it determines that the principals and
 1389 managers at the licensable location of the applicant have been (i) found guilty of any fraud or
 1390 misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,
 1391 fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a
 1392 felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a
 1393 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in
 1394 any application for a license to the Department is guilty of a Class 1 misdemeanor. The Department may
 1395 establish an application or renewal fee to be retained by the Department to be applied to the administrative
 1396 and other costs of processing license applications, conducting background investigations, and issuing
 1397 licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-
 1398 numbered years shall be reported to the State Treasurer and deposited into the state treasury.

1399 3. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1400 shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor
 1401 products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail
 1402 dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently
 1403 displayed on the premises covered by the license. No license shall be transferable to any other person,
 1404 partnership, corporation, limited liability company, or business trust; however, the Department may grant a
 1405 temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail
 1406 dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses,
 1407 other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of
 1408 issue unless revoked by the Department in the manner provided in this section. The Department may at any
 1409 time suspend or revoke the approved license, permit, or registration issued in accordance with this subsection
 1410 to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or
 1411 any of the rules of the Department adopted and promulgated under authority of this chapter. Any person
 1412 authorized to sell liquid nicotine or nicotine vapor products pursuant to this subsection shall, as a condition of
 1413 renewing or extending an approved license, permit, or registration, be required to submit to the Department
 1414 an accurate record of any taxes paid on liquid nicotine pursuant to § 58.1-1021.02.

1415 4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not
 1416 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid
 1417 nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found
 1418 guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

1419 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;

1420 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension
 1421 of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i)
 1422 of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30
 1423 years of age is of legal age by verifying such consumer's government-issued photographic identification using

1424 fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and
 1425 e. For a third violation in a 36-month period, a penalty of no less than \$10,000; revocation of the liquid
 1426 nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor
 1427 products license for a period of three years from the date of the most recent violation.

1428 5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine
 1429 vapor products without verifying that the consumer is of legal age by examining from any person who
 1430 appears to be under 30 years of age a government-issued photographic identification that establishes that the
 1431 person is of legal age or providing for age verification through an independent age verification service that
 1432 compares information available from a commercially available database, or aggregate of databases, that is
 1433 regularly used by government agencies and businesses for the purpose of age and identity verification to the
 1434 personal information entered by the individual during the ordering process that establishes that the individual
 1435 is of age.

1436 6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor
 1437 products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales
 1438 receipt involved that shall include itemized lists of the types of products included in such transaction, the tax
 1439 due on each product pursuant to subsection B of § 58.1-1021.02, and the total amount of taxes paid. Such
 1440 records shall be produced and provided to the Department as necessary for auditing, compliance, and
 1441 enforcement purposes.

1442 D. C. The Department shall compile and maintain a current list of licensed distributors and remote retail
 1443 sellers of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and
 1444 nicotine vapor products. The list shall be updated on a monthly basis and published on the Department's
 1445 website, available to any interested party.

1446 **§ 59.1-200. Prohibited practices.**

1447 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
 1448 transaction are hereby declared unlawful:

- 1449 1. Misrepresenting goods or services as those of another;
- 1450 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 1451 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
 1452 with another;
- 1453 4. Misrepresenting geographic origin in connection with goods or services;
- 1454 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
 1455 benefits;
- 1456 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 1457 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
 1458 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
 1459 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
 1460 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
 1461 "not first class";
- 1462 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
 1463 price or upon the terms advertised.

1464 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
 1465 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
 1466 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
 1467 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
 1468 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
 1469 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
 1470 reasonably expected to have at least such quantity or amount for sale;

1471 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
 1472 price reductions;

1473 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
 1474 installed;

1475 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
 1476 for merchandise or services previously ordered;

1477 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
 1478 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
 1479 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
 1480 goods or services advertised or offered for sale;

1481 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
 1482 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
 1483 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
 1484 statutes or regulations;

1485 13a. Failing to provide to a consumer, or failing to use or include in any written document or material

1486 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
 1487 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
 1488 provide, use, or include the statement, disclosure, notice, or other information in connection with the
 1489 consumer transaction;

1490 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
 1491 with a consumer transaction;

1492 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,
 1493 or 3.2-6519 is a violation of this chapter;

1494 16. Failing to disclose all conditions, charges, or fees relating to:

1495 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
 1496 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
 1497 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
 1498 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
 1499 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
 1500 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
 1501 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
 1502 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
 1503 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
 1504 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
 1505 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
 1506 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
 1507 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
 1508 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

1509 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
 1510 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
 1511 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
 1512 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

1513 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
 1514 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
 1515 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
 1516 overpayments. If the credit balance information is incorporated into statements of account furnished
 1517 consumers by suppliers within such 60-day period, no separate or additional notice is required;

1518 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
 1519 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

1520 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

1521 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

1522 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

1523 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
 1524 et seq.);

1525 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

1526 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
 1527 seq.);

1528 24. Violating any provision of § 54.1-1505;

1529 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
 1530 (§ 59.1-207.34 et seq.);

1531 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

1532 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

1533 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

1534 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

1535 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
 1536 seq.);

1537 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

1538 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

1539 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

1540 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

1541 35. Using the consumer's social security number as the consumer's account number with the supplier, if
 1542 the consumer has requested in writing that the supplier use an alternate number not associated with the
 1543 consumer's social security number;

1544 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

1545 37. Violating any provision of § 8.01-40.2;

1546 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

1547 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

- 1548 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 1549 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 1550 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
- 1551 § 59.1-526;
- 1552 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 1553 43. Violating any provision of § 59.1-443.2;
- 1554 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 1555 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 1556 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 1557 47. Violating any provision of § 18.2-239;
- 1558 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 1559 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 1560 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 1561 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 1562 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 1563 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 1564 products that are used, secondhand or "seconds";
- 1565 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 1566 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 1567 52. Violating any provision of § 8.2-317.1;
- 1568 53. Violating subsection A of § 9.1-149.1;
- 1569 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 1570 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 1571 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 1572 drywall has been permanently installed or affixed;
- 1573 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 1574 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 1575 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 1576 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 1577 seq.) of Title 54.1;
- 1578 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 1579 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 1580 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 1581 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 1582 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 1583 59. Violating any provision of subsection E of § 32.1-126;
- 1584 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 1585 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 1586 61. Violating any provision of § 2.2-2001.5;
- 1587 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 1588 63. Violating any provision of § 6.2-312;
- 1589 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 1590 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 1591 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 1592 67. Knowingly violating any provision of § 8.01-27.5;
- 1593 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 1594 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 1595 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 1596 obligation to pay for the goods or services;
- 1597 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 1598 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 1599 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 1600 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 1601 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 1602 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 1603 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1604 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
- 1605 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
- 1606 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 1607 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
- 1608 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1609 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,

1610 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
 1611 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
 1612 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
 1613 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
 1614 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
 1615 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
 1616 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
 1617 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
 1618 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
 1619 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
 1620 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1621 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 1622 16 (§ 4.1-1600 et seq.) of Title 4.1;

1623 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
 1624 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
 1625 that depicts or is in the shape of a human, animal, vehicle, or fruit;

1626 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 1627 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
 1628 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
 1629 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
 1630 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
 1631 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

1632 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
 1633 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
 1634 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1635 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 1636 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 1637 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

1638 75. Violating any provision of § 59.1-466.8;

1639 76. Violating subsection F of § 36-96.3:1;

1640 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
 1641 kratom product that does not include a label listing all ingredients and with the following guidance: "This
 1642 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
 1643 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
 1644 plant *Mitragyna speciosa* or any extract thereof;

1645 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
 1646 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
 1647 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
 1648 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
 1649 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
 1650 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
 1651 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
 1652 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
 1653 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
 1654 location;

1655 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
 1656 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
 1657 such good or provision of any such continuous service;

1658 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

1659 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
 1660 residential dwelling without holding a mold remediation certification from a nationally or internationally
 1661 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
 1662 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
 1663 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent
 1664 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
 1665 Commonwealth;

1666 82. Willfully violating any provision of § 59.1-444.4;

1667 83. Violating any provision of ~~Chapter 23.2 (§ 59.1-293.10 et seq.)~~ § 4.1-253, 4.1-356, 4.1-357, or 4.1-
 1668 362 through 4.1-368;

1669 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
 1670 requirements of 21 C.F.R. Part 101;

1671 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual

1672 health information without the consent of the consumer;

1673 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

1674 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
1675 seq.).

1676 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
1677 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
1678 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
1679 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

1680 **2. That §§ 58.1-1021.06 through 58.1-1021.09 and Chapter 23.2 (§§ 59.1-293.10 through 59.1-293.22) of**
1681 **Title 59.1 of the Code of Virginia are repealed.**

1682 **3. That for each retail tobacco permittee, the Board of Directors of the Virginia Alcoholic Beverage**
1683 **Control Authority (the Board) shall conduct an unannounced underage buyer operation at least once**
1684 **every 24 months to verify that the permittee is not selling retail tobacco products to persons under 21**
1685 **years of age. If the Board determines that the permittee has violated the provisions of § 4.1-359, as**
1686 **created by this act, the Board shall conduct an additional underage buyer operation of the permittee**
1687 **within six months of a Board order substantiating such violation.**