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**HOUSE BILL NO. 308**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on Rehabilitation and Social Services  
on February 27, 2026)

(Patron Prior to Substitute—Delegate Hope)

A *BILL to amend and reenact §§ 4.1-103, 4.1-229, 18.2-371.2, 18.2-391, 58.1-1021.04:2, 58.1-1021.06, 58.1-1021.07, 59.1-293.10, 59.1-293.12, 59.1-293.13, 59.1-391.15 through 59.1-293.18, 59.1-293.20, and 59.1-293.21 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 4.1-246; and to repeal § 58.1-1021.04:1 of the Code of Virginia, relating to Virginia Alcoholic Beverage Control Authority; licensing 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 §§ 4.1-103, 4.1-229, 18.2-371.2, 18.2-391, 58.1-1021.04:2, 58.1-1021.06, 58.1-1021.07, 59.1-293.10, 59.1-293.12, 59.1-293.13, 59.1-391.15 through 59.1-293.18, 59.1-293.20, and 59.1-293.21 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 4.1-246, as follows:**

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

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;
7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;
8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import, and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

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- 60 12. Buy and sell any mixers;
- 61 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international  
62 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25  
63 (clothing);
- 64 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
- 65 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or  
66 operated and the location of such stores;
- 67 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic  
68 beverages to and from such warehouses;
- 69 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
70 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
71 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,  
72 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to  
73 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time  
74 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms  
75 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or  
76 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such  
77 terms and conditions as may be determined by the Board; and occupy and improve any land or building  
78 required for the purposes of this subtitle;
- 79 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered  
80 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and  
81 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic  
82 beverages;
- 83 19. Determine the nature, form, and capacity of all containers used for holding alcoholic beverages to be  
84 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;  
85 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline  
86 alcohol;
- 87 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds  
88 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of  
89 experts and professionals;
- 90 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production  
91 of records, memoranda, papers, and other documents before the Board or any agent of the Board; and  
92 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the  
93 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and  
94 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may  
95 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement  
96 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such  
97 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A  
98 consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial  
99 review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by  
100 the Board in future disciplinary proceedings;
- 101 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to  
102 persons other than (i) officials, including court and police officials, of the Commonwealth and of its  
103 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal  
104 interest in obtaining the information requested if such information is not to be used for commercial or trade  
105 purposes;
- 106 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and  
107 § 4.1-111;
- 108 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale  
109 of alcoholic beverages;
- 110 25. *Grant, suspend, and revoke retail tobacco licenses for the sale of retail tobacco products;*
- 111 26. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;
- 112 ~~26.~~ 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;
- 113 ~~27.~~ 28. Establish minimum food sale requirements for all retail licensees;
- 114 ~~28.~~ 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief  
115 Executive Officer as the Board deems appropriate;
- 116 ~~29.~~ 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement  
117 activities undertaken to enforce the provisions of this subtitle;
- 118 ~~30.~~ 31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with  
119 applications for such permits;
- 120 ~~31.~~ 32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of  
121 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state

122 license fee; and

123 ~~32- 33.~~ Do all acts necessary or advisable to carry out the purposes of this subtitle.

124 **§ 4.1-229. Suspension or revocation of permits or licenses; grounds; notice and hearing; exception.**

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

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

130 Article 4.

131 Retail Tobacco Licenses.

132 **§ 4.1-241. Definitions.**

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

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

135 "Electronic smoking device" means the same as that term is defined in § 18.2-371.2.

136 "Licensed location" means the individual location or place of business licensed as a retail tobacco  
137 establishment by a licensee.

138 "Licensee" means any tobacco retailer to whom a retail tobacco license has been issued by the Board.

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

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

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

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

144 "Retail tobacco establishment" means the place of business owned by a licensee to sell retail tobacco  
145 products to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience  
146 store, gasoline service station, bar, or restaurant where retail tobacco products are available for sale to the  
147 general public. "Retail tobacco establishment" includes any facility from which cigarette delivery sales, as  
148 that term is defined in § 18.2-246.6, are made. "Retail tobacco establishment" does not include an  
149 establishment that does not sell retail tobacco products other than cigars and pipe tobacco as those terms are  
150 defined in § 58.1-1021.01.

151 "Retail tobacco license" means a license issued by the Board to a tobacco retailer that authorizes such  
152 retailer to sell retail tobacco products at a retail tobacco establishment owned by such licensee.

153 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that  
154 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,  
155 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, heated  
156 tobacco product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that  
157 may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any  
158 component, part, or accessory of a product described in clause (i) or (ii), whether or not such component,  
159 part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and  
160 glass pipes. "Retail tobacco product" includes any liquid nicotine or nicotine vapor product, or drugs or  
161 devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21  
162 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and  
163 Drug Administration. "Retail tobacco product" does not include any cigar or pipe tobacco as defined in  
164 § 58.1-1021.01.

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

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

167 **§ 4.1-242. Retail tobacco license; application; fee.**

168 A. No person shall engage in the business of selling or dealing in retail tobacco products as a tobacco  
169 retailer in the Commonwealth without first having received a separate license from the Board for each  
170 individual licensable location where such retail sales will occur. Each application for a retail tobacco license  
171 shall be accompanied by a fee of \$750 and shall be made on a form prescribed by the Board. Such  
172 application shall include the following information:

173 1. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name  
174 and address of each of its members shall be provided. If the applicant is a corporation, the name and address  
175 of each of its principal officers shall be provided;

176 2. The address of the applicant's principal place of business;

177 3. The place or places where the business to be licensed is to be conducted; and

178 4. Such other information as the Board may require for the purpose of the administration of this article.

179 B. The application or renewal fee of \$750 shall be retained by the Board to be applied to the  
180 administrative and other costs of processing retail tobacco license applications, conducting background  
181 investigations, and issuing retail tobacco licenses. Any amount collected pursuant to this section in excess of  
182 such costs as of June 30 in even-numbered years shall be divided as follows: (i) 75 percent to the Board for  
183 underage enforcement of the provisions of this article and (ii) 25 percent to the Office of the Attorney

184 *General for purposes of enforcement of the provisions of §§ 59.1-293.15 through 59.1-293.21.*

185 *C. A person outside the Commonwealth who ships or transports retail tobacco products to tobacco*  
 186 *retailers in the Commonwealth, to be sold by such retailers, may make application for a retail tobacco*  
 187 *license as a distributor, be granted such a license by the Board, and thereafter be subject to all the provisions*  
 188 *of this article. Once a license is granted pursuant to this section, such person shall be entitled to act as a*  
 189 *licensed distributor and, unless such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601*  
 190 *et seq.), 10 (§ 13.1-801 et seq.), 12 (§ 13.1-1000 et seq.), or 14 (§ 13.1-1200 et seq.) of Title 13.1 or Chapter*  
 191 *2.1 (§ 50-73.1 et seq.) or 2.2 (§ 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of*  
 192 *the State Corporation Commission as the person's agent for the purpose of service of process relating to any*  
 193 *matter or issue involving the person and arising under the provisions of this article.*

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

208 *E. Upon receipt of an application in proper form and payment of the required license fee, the Board shall,*  
 209 *unless otherwise provided by this article, issue to the applicant a license, which shall permit the licensee to*  
 210 *engage in business as a distributor at the location or place of business shown on the license. Each license, or*  
 211 *a copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be*  
 212 *transferable to any other person.*

213 *F. Retail tobacco licenses issued pursuant to this section shall be valid for a period of three years from*  
 214 *the date of issue unless revoked by the Board in the manner provided in this article.*

215 *G. The Board may at any time revoke the license issued for any licensee at a licensable location that is*  
 216 *found guilty of violating or noncompliance with any of the provisions of this article. The Board shall suspend*  
 217 *or revoke the retail tobacco license issued to any licensee who is found guilty of a second or subsequent*  
 218 *violation of subsection B or C of § 18.2-371.2.*

219 *H. The Board shall compile and maintain a current list of all licensees. The list shall be updated on a*  
 220 *monthly basis and published on the Board's website, available to any interested party.*

221 **§ 4.1-243. Background investigation required; penalties.**

222 *A. The Board shall conduct a background investigation, to include a Virginia criminal history records*  
 223 *search, and fingerprints of each applicant for a retail tobacco license, or the responsible principals,*  
 224 *managers, and other persons engaged in handling retail tobacco products at the licensable location, that*  
 225 *shall be submitted to the Federal Bureau of Investigation if the Board deems a national criminal records*  
 226 *search necessary. The Board may refuse to issue a retail tobacco license or may suspend, revoke, or refuse to*  
 227 *renew a retail tobacco license issued to any person, partnership, corporation, limited liability company, or*  
 228 *business trust if it determines that the principals, managers, and other persons engaged in handling retail*  
 229 *tobacco products at the licensable location of the applicant have been (i) found guilty of any fraud or*  
 230 *misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,*  
 231 *fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted of a felony.*

232 *B. Any person that knowingly and willfully falsifies, conceals, or misrepresents a material fact or*  
 233 *knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application*  
 234 *for a retail tobacco license to the Board, is guilty of a Class 1 misdemeanor.*

235 **§ 4.1-244. Liquid nicotine or nicotine vapor products; penalties.**

236 *A. In addition to the requirements of Chapter 23.2 (§ 59.1-293.10 et seq.) of Title 59.1, no person shall*  
 237 *engage in the business of selling or dealing liquid nicotine or nicotine vapor products or shipping or*  
 238 *transporting liquid nicotine or nicotine vapor products to retailers in the Commonwealth, to be sold by those*  
 239 *retailers, as a manufacturer, distributor, or retail dealer in the Commonwealth without first having received*  
 240 *a separate retail tobacco license pursuant to this article from the Board for each location or place of*  
 241 *business. Any person who violates such prohibition shall be subject to a penalty of \$400 in addition to any*  
 242 *other applicable taxes or fees.*

243 *B. Notwithstanding the provisions of subsection F of § 4.1-242, licenses, other than temporary licenses,*  
 244 *issued to a retailer engaged in the business of selling or dealing liquid nicotine or nicotine vapor products or*  
 245 *shipping or transporting liquid nicotine or nicotine vapor products to retailers in the Commonwealth, to be*

246 sold by those retailers, as a manufacturer, distributor, or retail dealer in the Commonwealth shall be valid  
 247 for two years from the date of issue unless revoked by the Board. The Board may at any time suspend or  
 248 revoke the approved retail tobacco license issued in accordance with this section to any person who is found  
 249 guilty of violating or noncompliance with any of the provisions of this article or any of the rules of the Board  
 250 adopted and promulgated under authority of this article. Any person licensed to sell liquid nicotine or  
 251 nicotine vapor products pursuant to this article shall, as a condition of renewing or extending an approved  
 252 retail tobacco license be required to submit to the Board an accurate record of any taxes paid on liquid  
 253 nicotine pursuant to § 58.1-1021.02.

254 C. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not  
 255 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid retail  
 256 tobacco license issued pursuant to this article.

257 D. 1. For each retail dealer, the Board shall conduct an unannounced investigation of licensed locations  
 258 at least once every 24 months to verify that no person at such licensed location is selling liquid nicotine or  
 259 nicotine vapor products to persons younger than 21 years of age. If the Board determines that the retail  
 260 dealer for a licensed location has violated any provision of this article, or any other state or local law related  
 261 to the sale of retail tobacco products, it shall conduct an unannounced investigation of the licensed location  
 262 within six months of such violation.

263 2. Any person who is found guilty of violating or noncompliance with this section shall be subject to the  
 264 following penalties for the licensed location:

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

266 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension  
 267 of the retail tobacco license. If the person is found to be in violation of clause (i) of subsection C, such person  
 268 shall be required to verify that any consumer who appears to be younger than 30 years of age is of legal age  
 269 by verifying such consumer's government-issued photographic identification using fraud detection software,  
 270 technology, or a scanner that confirms the authenticity of such identification; and

271 c. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the retail  
 272 tobacco license, and ineligibility to possess a retail tobacco license for liquid nicotine and nicotine vapor  
 273 products for a period of three years from the date of the most recent violation.

274 **§ 4.1-245. Liquid nicotine or nicotine vapor products; age verification required.**

275 A. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine  
 276 vapor products without verifying that the consumer is of legal age by examining from any person who  
 277 appears to be younger than 30 years of age a government-issued photographic identification that establishes  
 278 that the person is of legal age or providing for age verification through an independent age verification  
 279 service that compares information available from a commercially available database, or aggregate of  
 280 databases, that is regularly used by government agencies and businesses for the purpose of age and identity  
 281 verification to the personal information entered by the individual during the ordering process that establishes  
 282 that the individual is of age.

283 **§ 4.1-246. Liquid nicotine or nicotine vapor products; certain records required.**

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

290 **§ 18.2-371.2. Prohibiting purchase or possession of retail tobacco products and hemp products  
 291 intended for smoking by a person under 21 years of age or sale of retail tobacco products and hemp  
 292 products intended for smoking to persons under 21 years of age; civil penalties.**

293 A. As used in this section,

294 "Authority" means the Virginia Alcoholic Beverage Control Authority.

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

304 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in  
 305 § 3.2-4112.

306 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that  
 307 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,

308 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated  
 309 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device  
 310 and any substances that may be aerosolized or vaporized by such device, whether or not the substance  
 311 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),  
 312 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling  
 313 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that  
 314 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms  
 315 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such  
 316 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.  
 317 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for  
 318 smoking in a manner similar to a cigarette or cigar.

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

322 No person shall sell retail tobacco products or hemp products intended for smoking from a vending  
 323 machine.

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

327 Before a retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as  
 328 defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the  
 329 retail tobacco products shall verify that the consumer is of legal age by examining from any person who  
 330 appears to be under 30 years of age a government-issued photographic identification that establishes that the  
 331 person is of legal age or, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 § 4.1-242 or 4.1-244  
 332 or subdivision B 2 b of § 59.1-293.12, verifying the identification presented using identification fraud  
 333 detection software, technology, or a scanner that confirms the authenticity of such identification.

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

341 ~~C.~~ D. A violation of subsection ~~A B~~ or ~~B C~~ by an individual or by a separate retail establishment is  
 342 punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of  
 343 \$2,500 for a second or subsequent violation within a three-year period. If applicable, upon a second or  
 344 subsequent violation within a three-year period, the Department of Taxation Authority may suspend or revoke  
 345 any approved license, permit, or registration issued pursuant to ~~subsection C of § 58.1-1021.04:1 § 4.1-242.~~

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

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

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

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

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

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

370 F. G. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may  
 371 issue a summons for any violation of this section. Additionally, any retailer selling retail tobacco products  
 372 shall be subject to the enforcement and compliance provisions of *Article 4 (§ 4.1-241 et seq.) of Chapter 2 of*  
 373 *Title 4.1 and Chapter 23.2 (§ 59.1-293.10 et seq.) of Title 59.1.*

374 G. As used in this section:

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

384 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in  
 385 § 3.2-4112.

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

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

399 **§ 18.2-391. Unlawful acts; penalties.**

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

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

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

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

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

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

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

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

431 F. A violation of subsection A, B, C, or D is a Class 1 misdemeanor. A person or separate retail

432 establishment who violates subsection E shall be liable for a civil penalty not to exceed \$100 for a first  
433 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for  
434 a third or subsequent violation.

435 **§ 58.1-623.2. Cigarette exemption certificate.**

436 A. 1. Notwithstanding any other provision of law, all sales of cigarettes, as defined in § 58.1-1031,  
437 bearing Virginia revenue stamps in the Commonwealth shall be subject to the tax until the contrary is  
438 established. The burden of proving that a sale is not taxable is upon the dealer unless he takes from the  
439 taxpayer a cigarette exemption certificate issued by the Department to the taxpayer to the effect that the  
440 cigarettes are exempt under this chapter for the purposes of resale in the Commonwealth.

441 2. The cigarette exemption certificate mentioned in this section shall relieve the person who takes such  
442 certificate from any liability for the payment or collection of the tax on the sale of cigarettes, except upon  
443 notice from the Tax Commissioner or the taxpayer that such certificate is no longer acceptable.

444 3. If a taxpayer who gives a cigarette exemption certificate under this section makes any use of the  
445 property other than an exempt use or retention, demonstration, or display while holding the property for  
446 resale or distribution in the regular course of business, such use shall be deemed a taxable sale by the  
447 taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be  
448 deemed the sales price of such retail sale.

449 B. 1. Prior to issuing a cigarette exemption certificate under this section, the Department shall conduct a  
450 background investigation on the taxpayer for the certificate. The Department shall not issue a cigarette  
451 exemption certificate until at least 30 days have passed from the receipt of the application, unless the  
452 taxpayer qualifies for the expedited process set forth in subdivision 3, or any other expedited process set forth  
453 in guidelines issued pursuant to subsection L. If the taxpayer does not qualify for the expedited process, the  
454 Department shall inspect each location listed in the application and verify that any location that resells  
455 cigarettes meets the requirements prescribed in subsection E.

456 2. A taxpayer shall be required to pay an application fee, not to exceed \$50, to the Department for a  
457 cigarette exemption certificate.

458 3. A taxpayer shall be eligible for an expedited process to receive a cigarette exemption certificate if the  
459 taxpayer possesses, at the time of filing an application for a cigarette exemption certificate, (i) an active  
460 license, in good standing, issued by the Department of Alcoholic Beverage Control pursuant to Title 4.1, as  
461 verified by electronic or other means by the Department, or (ii) an active *retail tobacco products tax*  
462 *distributor's* license, in good standing, issued by the Department pursuant to ~~§ 58.1-1021.04-1~~ *Article 4*  
463 *(§ 4.1-241 et seq.) of Chapter 2 of Title 4.1.* The Department may identify other categories of taxpayers who  
464 qualify for an expedited process through guidelines issued pursuant to subsection L. Taxpayers that qualify  
465 for an expedited process shall not be subject to the background check or the waiting period set forth in  
466 subdivision 1, nor shall such taxpayers be required to pay the application fee set forth in subdivision 2.

467 4. If a taxpayer has been denied a cigarette exemption certificate, or has been issued a cigarette exemption  
468 certificate that has subsequently been suspended or revoked, the Department shall not consider an application  
469 from the taxpayer for a new cigarette exemption certificate for six months from the date of the denial,  
470 suspension, or revocation.

471 C. The Department shall deny an application for a cigarette exemption certificate, or suspend or revoke a  
472 cigarette exemption certificate previously issued to a taxpayer, if the Department determines that:

473 1. The taxpayer is a person who is not 18 years of age or older;

474 2. The taxpayer is a person who is physically unable to carry on the business for which the application for  
475 a cigarette exemption certificate is filed, or has been adjudicated incapacitated;

476 3. The taxpayer has not resided in the Commonwealth for at least one year immediately preceding the  
477 application, unless in the opinion of the Department, good cause exists for the taxpayer to have not resided in  
478 the Commonwealth for the immediately preceding year;

479 4. The taxpayer has not established a physical place of business in the Commonwealth, as described in  
480 subsection E;

481 5. A court or administrative body having jurisdiction has found that the physical place of business  
482 occupied by the taxpayer, as described in subsection E, does not conform to the sanitation, health,  
483 construction, or equipment requirements of the governing body of the county, city, or town in which such  
484 physical place is located, or to similar requirements established pursuant to the laws of the Commonwealth;

485 6. The physical place of business occupied by the taxpayer, as described in subsection E, is not  
486 constructed, arranged, or illuminated so as to allow access to and reasonable observation of, any room or area  
487 in which cigarettes are to be sold;

488 7. The taxpayer is not an authorized representative of the business;

489 8. The taxpayer made a material misstatement or material omission in the application;

490 9. The taxpayer has defrauded, or attempted to defraud, the Department, or any federal, state, or local  
491 government or governmental agency or authority, by making or filing any report, document, or tax return  
492 required by statute or regulation that is fraudulent or contains a false representation of material fact, or the  
493 taxpayer has willfully deceived or attempted to deceive the Department, or any federal, state, or local

494 government or governmental agency or authority, by making or maintaining business records required by  
 495 statute or regulation that are false or fraudulent;

496 10. The Tax Commissioner has determined that the taxpayer has misused the certificate;

497 11. The taxpayer has knowingly and willfully allowed any individual, other than an authorized  
 498 representative, to use the certificate;

499 12. The taxpayer has failed to comply with or has been convicted under any of the provisions of this  
 500 chapter or Chapter 10 (§ 58.1-1000 et seq.) or any of the rules of the Department adopted or promulgated  
 501 under the authority of this chapter or Chapter 10; however, no certificate shall be denied, suspended, or  
 502 revoked on the basis of a failure to file a retail sales and use tax return or remit retail sales and use tax unless  
 503 the taxpayer is more than 30 days delinquent in any filing or payment and has not entered into an installment  
 504 agreement pursuant to § 58.1-1817; or

505 13. The taxpayer has been convicted under the laws of any state or of the United States of (i) any robbery,  
 506 extortion, burglary, larceny, embezzlement, gambling, perjury, bribery, treason, racketeering, money  
 507 laundering, other crime involving fraud under Chapter 6 (§ 18.2-168 et seq.) of Title 18.2, or crime that has  
 508 the same elements of the offenses set forth in § 58.1-1017 or 58.1-1017.1, or (ii) a felony.

509 D. The provisions of § 58.1-623.1 shall apply to the suspension and revocation of exemption certificates  
 510 issued pursuant to this section, mutatis mutandis.

511 E. A cigarette exemption certificate shall only be issued to a taxpayer who:

512 1. Has a physical place of business in the Commonwealth, owned or leased by him, where a substantial  
 513 portion of the sales activity of the retail cigarette sales activity of the business is routinely conducted and that  
 514 (i) satisfies all local zoning regulations; (ii) has sales and office space of at least 250 square feet in a  
 515 permanent, enclosed building not used as a house, apartment, storage unit, garage, or other building other  
 516 than a building zoned for retail business; (iii) houses all records required to be maintained pursuant to  
 517 § 58.1-1007; (iv) is equipped with office equipment, including but not limited to, a desk, a chair, a Point of  
 518 Sale System, filing space, a working telephone listed in the name of the taxpayer or his business, working  
 519 utilities, including electricity and provisions for space heating, and an Internet connection and email address;  
 520 (v) displays a sign and business hours and is open to the public during the listed business hours; and (vi) does  
 521 not occupy the same physical place of business of any other taxpayer who has been issued a cigarette  
 522 exemption certificate;

523 2. Possesses a copy of the (i) corporate charter and articles of incorporation in the case of a corporation,  
 524 (ii) partnership agreement in the case of a partnership, or (iii) organizational registration from the Virginia  
 525 State Corporation Commission in the case of an LLC; and

526 3. Possesses a local business license, if such local business license is required by the locality where the  
 527 taxpayer's physical place of business is located.

528 F. A taxpayer with more than one physical place of business shall be required to complete only one  
 529 application for a cigarette exemption certificate but shall list on the application every physical place of  
 530 business in the Commonwealth where cigarettes are purchased, stored, or resold by the taxpayer or his  
 531 affiliate. Upon approval of the application, the Department shall issue a cigarette exemption certificate to the  
 532 taxpayer. The taxpayer shall be authorized to resell cigarettes only at the locations listed on the application.  
 533 No cigarette exemption certificate shall be transferrable. For purposes of this subsection, a taxpayer shall be  
 534 considered to have more than one physical place of business if the taxpayer owns or leases two or more  
 535 physical locations in the Commonwealth where cigarettes are purchased, stored, or resold.

536 G. A cigarette exemption certificate issued to a taxpayer shall bear the address of the physical place of  
 537 business occupied or to be occupied by the taxpayer in conducting the business of purchasing cigarettes in the  
 538 Commonwealth. In the event that a taxpayer intends to move the physical place of business listed on a  
 539 certificate to a new location, he shall provide written notice to the Department at least 30 days in advance of  
 540 the move. A successful inspection of the new physical place of business shall be required by the Department  
 541 prior to the issuance of a new cigarette exemption certificate bearing the updated address. If the taxpayer  
 542 intends to change any of the required information relating to the physical places of business contained in the  
 543 application for the cigarette exemption certificate submitted pursuant to subsection F, the taxpayer shall file  
 544 an amendment to the application at least 30 days in advance of such change. The certificate with the original  
 545 address shall become invalid upon the issuance of the new certificate, or 30 days after notice of the move is  
 546 provided to the Department, whichever occurs sooner. A taxpayer shall not be required to pay a fee to the  
 547 Department for the issuance of a new cigarette exemption certificate pursuant to this subsection.

548 H. The privilege of a taxpayer issued a cigarette exemption certificate to purchase cigarettes shall extend  
 549 to any authorized representative of such taxpayer. The taxpayer issued a cigarette exemption certificate may  
 550 be held liable for any violation of this chapter, Chapter 10 (§ 58.1-1000 et seq.), Chapter 10.1 (§ 58.1-1031 et  
 551 seq.), or any related Department guidelines by such authorized representative.

552 I. A taxpayer issued a cigarette exemption certificate shall comply with the recordkeeping requirements  
 553 prescribed in § 58.1-1007 and shall make such records available for audit and inspection as provided therein.  
 554 A taxpayer issued a cigarette exemption certificate who fails to comply with such requirements shall be  
 555 subject to the penalties provided in § 58.1-1007.

556 J. A cigarette exemption certificate granted by the Department shall be valid for five years from the date  
 557 of issuance. At the end of the five-year period, the cigarette exemption certificate of a taxpayer who qualifies  
 558 for the expedited application process set forth in subdivision B 3 shall be automatically renewed and no fee  
 559 shall be required. If a taxpayer does not qualify for the expedited application process, then such taxpayer shall  
 560 apply to the Department to renew the new cigarette exemption certificate as set forth in subdivision B 1 and  
 561 shall pay an application fee not to exceed \$50 as set forth in subdivision B 2; however, the 30-day waiting  
 562 period set forth in subdivision B 1 shall not apply.

563 K. No taxpayer issued a cigarette exemption certificate shall display the certificate, or a copy thereof, in  
 564 the physical place of business where a substantial portion of the retail cigarette sales activity of the business  
 565 is routinely conducted.

566 L. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including  
 567 but not limited to (i) defining categories of taxpayers who qualify for the expedited process, (ii) prescribing  
 568 the form of the application for the cigarette exemption certificate, (iii) prescribing the form of the application  
 569 for the expedited cigarette exemption certificate, (iv) establishing procedures for suspending and revoking the  
 570 cigarette exemption certificate, and (v) establishing procedures for renewing the cigarette exemption  
 571 certificate. Such guidelines shall be exempt from the provisions of the Administrative Process Act  
 572 (§ 2.2-4000 et seq.).

573 M. For the purposes of this section:

574 "Authorized representative" means an individual who has an ownership interest in or is a current  
 575 employee of the taxpayer who possesses a valid cigarette exemption certificate pursuant to this section.

576 **§ 58.1-1021.04:2. Certain records required of distributor; access to premises.**

577 A. Each distributor or remote retail seller shall keep in each licensed place of business complete and  
 578 accurate records for that place of business, including itemized invoices of: (i) tobacco products held,  
 579 purchased, manufactured, brought in or caused to be brought in from outside the Commonwealth, or shipped  
 580 or transported to retailers in the Commonwealth; (ii) all sales of tobacco products made; (iii) all tobacco  
 581 products, including cigars and pipe tobacco, transferred to other retail outlets owned or controlled by that  
 582 licensed distributor or remote retail seller; and (iv) any records required by the Department.

583 All books, records and other papers and documents required by this subsection to be kept shall be  
 584 preserved, in a form prescribed by the Department, for a period of at least three years after the date of the  
 585 documents or the date of the entries thereof appearing in the records, unless the Department authorizes, in  
 586 writing, their destruction or disposal at an earlier date.

587 B. At any time during usual business hours, duly authorized agents or employees of the Department may  
 588 enter any place of business of a distributor and inspect the premises, the records required to be kept under this  
 589 article and the tobacco products contained therein, to determine whether all the provisions of this article are  
 590 being complied with fully. Refusal to permit such inspection by a duly authorized agent or employee of the  
 591 Department shall be grounds for revocation of the license.

592 C. Each person who sells tobacco products to persons other than an ultimate consumer shall render with  
 593 each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date  
 594 of sale and all prices. Such person shall preserve legible copies of all such invoices for three years after the  
 595 date of sale.

596 D. Each distributor or remote retail seller shall procure itemized invoices of all tobacco products  
 597 purchased. The invoices shall show the name and address of the seller and the date of purchase. The  
 598 distributor or remote retail seller shall preserve a legible copy of each invoice for three years after the date of  
 599 purchase. Invoices shall be available for inspection by authorized agents or employees of the Department at  
 600 the distributor's place of business or remote retail seller's place of business. If the remote retail seller cannot  
 601 produce the required invoice information and the excise tax is being remitted using the actual cost list method  
 602 to calculate the excise tax, the remote retail seller shall provide the remote retail seller's certified actual cost  
 603 list to the Department for each SKU to be offered for remote retail sale in the subsequent calendar year. The  
 604 actual cost list shall be updated quarterly as new SKUs are added to a remote retail seller's inventory. New  
 605 SKUs will be added using the actual cost first paid for the SKU. This method shall not be used unless the  
 606 actual cost list has been filed with the Department for the previous calendar year.

607 E. Any violation of *Article 4 (§ 4.1-241 et seq.) of Chapter 2 of Title 4.1* or ~~§ 58.1-1021.04:1,~~  
 608 ~~58.1-1021.04:2, 58.1-1021.04:3, or 58.1-1021.04:4~~ of this article shall be grounds for revocation of the  
 609 license.

610 **§ 58.1-1021.06. Delivery sales of liquid nicotine and nicotine vapor products.**

611 A. A retail dealer shall not make a delivery sale of liquid nicotine or nicotine vapor products without a  
 612 license issued pursuant to ~~§ 58.1-1021.04:1~~ *Article 4 (§ 4.1-241 et seq.) of Chapter 2 of Title 4.1*. Such  
 613 delivery sales and any shipment shall be made only to a legal consumer.

614 B. A retail dealer may not ship for delivery sale any liquid nicotine or nicotine vapor products without  
 615 first making a good faith effort to verify the age of the purchaser of the liquid nicotine or nicotine vapor  
 616 products through an independent age verification software, service, or technology that compares information  
 617 available from public records to the personal information entered by the purchaser during the ordering

618 process that establishes the purchaser is of legal age or older.

619 C. Prior to shipment of liquid nicotine or nicotine vapor products for a delivery sale, a retail dealer shall  
620 be fully paid for the purchase and shall accept payment from the consumer by a check drawn on an account in  
621 the consumer's name, by a credit card issued in the consumer's name, or by a debit card issued in the  
622 consumer's name. A retail dealer taking a delivery sale may request the electronic mail address of the  
623 consumer as a condition of completing such delivery sale.

624 **§ 58.1-1021.07. Retail sales of liquid nicotine and nicotine vapor products; identification and use by**  
625 **minors.**

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

629 1. For any retail sale by a retail dealer, examining from any person who appears to be under 30 years of  
630 age a government-issued photographic identification that establishes the person is of legal age or, if required  
631 pursuant to ~~subdivision C 4 b of § 58.1-1021.04~~ ~~4~~ § 4.1-245 or subdivision B 2 b of § 59.1-293.12, verifying  
632 the identification presented using identification fraud detection software, technology, or scanner that confirms  
633 the authenticity of such identification; or

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

638 **§ 59.1-293.10. Definitions.**

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

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

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

644 "Department" means the Department of Taxation.

645 "Licensed location" means the same as that term is defined in § 4.1-241.

646 "Licensee" means the same as that term is defined in § 4.1-241.

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

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

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

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

654 "Retail tobacco product" means ~~(i) any product containing, made of, or derived from tobacco or that~~  
655 ~~contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,~~  
656 ~~heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated~~  
657 ~~tobacco product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that~~  
658 ~~may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any~~  
659 ~~component, part, or accessory of a product described in clause (i) or (ii), whether or not such component,~~  
660 ~~part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and~~  
661 ~~glass pipes. "Retail tobacco product" includes any nicotine vapor product. "Retail tobacco product" does not~~  
662 ~~include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term~~  
663 ~~is used in 21 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S.~~  
664 ~~Food and Drug Administration. "Retail tobacco product" does not include any cigar or pipe tobacco as~~  
665 ~~defined in § 58.1-1021.01 the same as that term is defined in § 4.1-241.~~

666 "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association,  
667 organization, or corporation that owns, operates, or manages any tobacco retail establishment. "Tobacco  
668 retailer" does not include nonmanagement employees of a tobacco retail establishment.

669 "Tobacco retail establishment" means any place of business where retail tobacco products are available  
670 for sale to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience  
671 store, gasoline service station, bar, or restaurant where retail tobacco products are available for sale to the  
672 general public.

673 **§ 59.1-293.13. Required education for retail dealers and employees.**

674 Any retail dealer shall be required to attest that it has conducted education and training for its employees  
675 related to:

- 676 1. The provisions of § §§ 4.1-244, 4.1-245, and 59.1-293.12;
- 677 2. The prohibitions on the sale of retail tobacco products to persons under age 21 and other restrictions  
678 prescribed by §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2;
- 679 3. Forms of identification that are acceptable as proof of age; and

680 4. The legal penalties that may be incurred for violation of the provisions of law identified in subdivisions  
681 1 and 2.

682 **§ 59.1-293.15. Liquid nicotine and nicotine vapor product; directory.**

683 The Attorney General shall establish and maintain a directory that lists all liquid nicotine or nicotine vapor  
684 product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate  
685 certification forms have been submitted in accordance with the provisions of § ~~59.1-293.13~~ 59.1-293.16. The  
686 Attorney General shall make the directory available for public inspection on its website. The Attorney  
687 General shall update the directory as necessary.

688 **§ 59.1-293.16. Liquid nicotine and nicotine vapor product; certification; penalty.**

689 A. By December 31, 2025, and annually thereafter, every manufacturer of liquid nicotine or nicotine  
690 vapor products that are sold for retail sale in the Commonwealth, whether directly or through a wholesaler,  
691 distributor, retailer, or similar intermediary, shall certify in a form and manner as prescribed by the Attorney  
692 General that the manufacturer agrees to comply with the provisions of this chapter and that:

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

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

700 B. A manufacturer of liquid nicotine or nicotine vapor products shall submit a certification *or*  
701 *recertification* form for each liquid nicotine and nicotine vapor product that such manufacturer sells for retail  
702 sale in the Commonwealth.

703 C. Each certification *or recertification* form shall be accompanied by:

704 ~~1. A~~ a copy of the marketing authorization or other order for each liquid nicotine or nicotine vapor  
705 product issued by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j, or evidence that the  
706 premarket tobacco product application for the liquid nicotine or nicotine vapor product was submitted to the  
707 U.S. Food and Drug Administration and a final authorization or order has not yet taken effect; *and*:

708 ~~2. A~~ 1. An initial certification fee of ~~\$2,000~~ \$5,000 for each liquid nicotine and nicotine vapor product; to  
709 be remitted with the manufacturer's first certification submission that identifies any such product and with  
710 any resubmission of a certification for any such product following any period of noncertified status; ~~and~~ *or*

711 ~~3. A~~ 2. An annual *recertification* fee of ~~\$500 to be submitted annually~~ \$2,500 for each liquid nicotine and  
712 nicotine vapor product to be remitted with the manufacturer's annual *recertification* submission identifying  
713 any liquid nicotine or nicotine vapor such product, where such *recertification* does not follow any period of  
714 noncertified status.

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

721 E. Any manufacturer that falsely represents any of the information required by this section is guilty of a  
722 Class 3 misdemeanor for each false representation. *Notwithstanding the provisions of § 2.2-511, the Attorney*  
723 *General may institute or conduct a prosecution for a violation of this subsection. Venue for prosecution of a*  
724 *such violation of this subsection shall be proper in the Circuit Court for the City of Richmond.*

725 **§ 59.1-293.17. Removal or exclusion from directory.**

726 A. The Attorney General shall, in accordance with the provisions of this section, remove or exclude from  
727 the directory any liquid nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor  
728 product that the Attorney General determines is not in compliance with the provisions of this chapter.

729 B. If the Attorney General determines to remove or exclude from the directory a liquid nicotine or  
730 nicotine vapor product manufacturer or a liquid nicotine or nicotine vapor product in the directory, the  
731 Attorney General shall notify by electronic or other practicable means the manufacturer's registered agent in  
732 the Commonwealth of such determination. The liquid nicotine or nicotine vapor product manufacturer shall  
733 have 10 business days from receipt of such notice to establish that the liquid nicotine or nicotine vapor  
734 product manufacturer or liquid nicotine or nicotine vapor product meets the requirements to be included in  
735 the directory. If the liquid nicotine or nicotine vapor product manufacturer fails to establish compliance  
736 within the 10-business-day period, the Attorney General shall remove or exclude from the directory the liquid  
737 nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor product.

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

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

742 1. Each retailer, distributor, and wholesaler shall have 30 days to sell the product or remove such product  
 743 intended for retail sale in the Commonwealth from its inventory and return the product to the manufacturer  
 744 for disposal. After ~~24~~ 30 days following the removal from the directory, the liquid nicotine and nicotine vapor  
 745 products removed from the directory shall be subject to seizure, forfeiture, and destruction *by the Attorney*  
 746 *General, the attorney for the Commonwealth, or the attorney for the county, city, or town or by local law*  
 747 *enforcement* and shall not be purchased or sold in the Commonwealth.

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

755 **§ 59.1-293.18. Agent for service of process.**

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

765 B. The manufacturer shall provide notice to the Attorney General 30 calendar days prior to termination of  
 766 the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the  
 767 appointment of a new agent no less than five calendar days prior to the termination of an existing agent  
 768 appointment. In the event an agent terminates an agency appointment, the manufacturer shall notify the  
 769 Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the  
 770 Attorney General of the appointment of a new agent.

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

776 **§ 59.1-293.20. Sale or distribution prohibited.**

777 A. Beginning December 31, 2025, no person shall sell, distribute, or import for resale, or offer for sale a  
 778 liquid nicotine or nicotine vapor product for retail sale in the Commonwealth unless such liquid nicotine or  
 779 nicotine vapor product is included in the directory established by the Attorney General pursuant to ~~§~~  
 780 ~~59.1-293.12~~ *59.1-293.15*.

781 B. Beginning December 31, 2025, no liquid nicotine or nicotine vapor product manufacturer shall sell for  
 782 retail sale, either directly or through a wholesaler, distributor, retailer, or similar intermediary or  
 783 intermediaries, a liquid nicotine or nicotine vapor product in the Commonwealth unless such liquid nicotine  
 784 or nicotine vapor product is included in the directory established by the Attorney General pursuant to ~~§~~  
 785 ~~59.1-293.12~~ *59.1-293.15*.

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

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

792 ~~E. the following civil penalties:~~

793 ~~1. For the first violation, a penalty of no less than \$5,000 per liquid nicotine or nicotine vapor product~~  
 794 ~~offered for sale;~~

795 ~~2. For a second violation, a penalty of no less than \$10,000 per liquid nicotine or nicotine vapor product~~  
 796 ~~offered for sale; and~~

797 ~~3. For a third violation, a penalty of no less than \$15,000 per liquid nicotine or nicotine vapor product~~  
 798 ~~offered for sale.~~

799 ~~Such civil penalties shall only apply to the specific licensed location where the violation occurred.~~

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

803 ~~F. E. Each distributor or wholesaler shall have 60 days from the date that the Attorney General first makes~~

804 the directory available for inspection on its public website to remove any products intended for sale in the  
805 Commonwealth from its inventory and return such products to the manufacturer for disposal.

806 ~~G. F.~~ In an action brought under this section, *the Attorney General*, the attorney for the Commonwealth,  
807 or the attorney for the county, city, or town may recover reasonable costs of investigation, the costs of the  
808 action, and attorney fees *in addition to any civil penalties*.

809 ~~H. G.~~ Any civil penalties, costs, and attorney fees assessed under this section in an action brought in the  
810 name of a locality shall be paid into the general fund of the locality.

811 ~~I. H.~~ All civil penalties, costs, and attorney fees assessed under this section in an action brought in the  
812 name of the Commonwealth by the Attorney General and fees collected by the Attorney General pursuant to  
813 this chapter § 59.1-293.15 shall be used for the administration and enforcement of this chapter.

814 **§ 59.1-293.21. Enforcement; inspection; forfeiture.**

815 A. Notwithstanding any other provisions of law to the contrary, *the Attorney General*, any attorney for the  
816 Commonwealth, or the attorney for any city, county, or town may cause an action to be brought in the  
817 appropriate circuit court in the name of the Commonwealth or of the county, city, or town to enjoin any  
818 violation of this chapter. The circuit court having jurisdiction may enjoin such violations notwithstanding the  
819 existence of an adequate remedy at law. In any action under this section, it shall not be necessary that  
820 damages be proved.

821 B. The circuit courts are authorized to (i) issue temporary or permanent injunctions to restrain and prevent  
822 violations of this chapter and (ii) order forfeiture of any property seized for a violation of this chapter.

823 C. Each violation of this chapter shall constitute a separate violation and shall be subject to any penalties  
824 imposed under this chapter.

825 D. Any retailer or wholesaler that sells or distributes any liquid nicotine or nicotine vapor product in the  
826 Commonwealth shall be subject to scheduled or unscheduled compliance checks carried out by the Attorney  
827 General, or an agent thereof, for the purposes of enforcing the provisions of this chapter *and Article 4*  
828 *(§ 4.1-241 et seq.) of Chapter 2 of Title 4.1.*

829 E. Any liquid nicotine or nicotine vapor product that has been sold, offered for sale, or possessed for sale  
830 in the Commonwealth, or imported for personal consumption in the Commonwealth, in violation of this  
831 chapter shall be deemed contraband and may not be sold or offered for sale unless such liquid nicotine or  
832 nicotine vapor product are listed in the directory. Any such liquid nicotine or nicotine vapor product that is  
833 sold or offered for sale when not included in the directory shall be subject to confiscation and forfeiture. Any  
834 such confiscation and forfeiture shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1  
835 et seq.) of Title 19.2, which shall apply *mutatis mutandis*, except that all such liquid nicotine or nicotine  
836 vapor product so confiscated and forfeited shall be destroyed and not resold.

837 F. Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200  
838 and shall be subject to any and all of the enforcement provisions of Chapter 17 (§ 59.1-200 et seq.).

839 **2. That § 58.1-1021.04:1 of the Code of Virginia is repealed.**

840 **3. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall**  
841 **provide an annual report, beginning December 1, 2026, to the General Assembly on the efficacy of an**  
842 **unannounced underage buyer operation to verify that each retail tobacco licensee is not selling retail**  
843 **tobacco products to persons younger than 21 years of age.**