

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 3.2-4113, 4.1-1604, 18.2-36.3, 18.2-250, 18.2-251, 18.2-251.03 through*
 3 *18.2-251.1:3, 18.2-308.1:5, 19.2-327.15, 32.1-45.4, and 54.1-3466 of the Code of Virginia and to amend*
 4 *the Code of Virginia by adding a section numbered 18.2-250.01, relating to possession of residue of a*
 5 *controlled substance; penalties; exceptions.*

6 [H 637]

7 Approved

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

9 **1. That §§ 3.2-4113, 4.1-1604, 18.2-36.3, 18.2-250, 18.2-251, 18.2-251.03 through 18.2-251.1:3,**
 10 **18.2-308.1:5, 19.2-327.15, 32.1-45.4, and 54.1-3466 of the Code of Virginia are amended and reenacted**
 11 **and that the Code of Virginia is amended by adding a section numbered 18.2-250.01 as follows:**

12 **§ 3.2-4113. Production of industrial hemp lawful.**

13 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his
 14 agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful
 15 purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11
 16 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, ~~or~~ 18.2-250, *or*
 17 *18.2-250.01*, for the possession or growing of industrial hemp or any Cannabis sativa with a
 18 tetrahydrocannabinol concentration that does not exceed the total tetrahydrocannabinol concentration
 19 percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. §
 20 990.6(b)(3). No handler or his agent or processor or his agent shall be prosecuted under Chapter 11
 21 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, ~~or~~ 18.2-250, *or*
 22 *18.2-250.01*, or issued a summons or judgment for the possession, handling, or processing of industrial hemp.
 23 In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of
 24 any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act
 25 (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption
 26 contained in this article or the Drug Control Act, and the burden of proof of any such exception, excuse,
 27 proviso, or exemption shall be on the defendant.

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

30 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247,
 31 18.2-248, 18.2-248.01, 18.2-248.1, ~~or~~ 18.2-250, *or 18.2-250.01*, for the involuntary growth of industrial
 32 hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field,
 33 handler's storage site, or process site.

34 **§ 4.1-1604. Criminal liability; exceptions.**

35 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted
 36 under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, 18.2-248.1, ~~or~~ 18.2-250, *or 18.2-250.01*, for possession
 37 or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to
 38 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
 39 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of
 40 producing cannabis products in accordance with the provisions of this chapter and Board regulations or (ii)
 41 possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted
 42 cannabis industry standards in accordance with the provisions of this chapter and Board regulations.

43 **§ 18.2-36.3. Involuntary manslaughter; certain drug offenses.**

44 A. Any person who knowingly, intentionally, and feloniously manufactures, sells, or distributes a
 45 controlled substance knowing that such controlled substance contains a detectable amount of fentanyl,
 46 including its derivatives, isomers, esters, ethers, salts, and salts of isomers, in violation of Article 1
 47 (§ 18.2-247 et seq.) of Chapter 7 and unintentionally causes the death of another person is guilty of
 48 involuntary manslaughter if (i) such death results from the use of the controlled substance and (ii) such
 49 controlled substance is the proximate cause of the death regardless of the time or place death occurred in
 50 relation to the commission of the underlying manufacturing, sale, or distribution of a controlled substance
 51 that contains a detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts
 52 of isomers.

53 B. It is not a defense to a prosecution under this section that the decedent contributed to his own death by
 54 his knowing or voluntary use of the controlled substance. Venue for a prosecution under this section shall lie
 55 in the locality where the manufacturing, sale, or distribution of a controlled substance that contains a
 56 detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers,

57 occurred, where the use of the controlled substance occurred, or where death occurred.

58 C. However, if any person proves that he gave or distributed a controlled substance that contains a
59 detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers, in
60 violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 only as an accommodation to another individual who
61 is not an inmate in a community correctional facility, local correctional facility, or state correctional facility
62 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any
63 consideration received or expected nor to induce the recipient or intended recipient of the controlled
64 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall~~ *is not be* guilty
65 of involuntary manslaughter but is guilty of an accommodation sale punishable as a Class 6 felony.

66 D. No person convicted pursuant to this section for conduct described in subsection A shall be subject to a
67 prosecution for a violation of subsection D of § 18.2-46.6 or § 18.2-248.01, 18.2-250, *18.2-250.01*, or
68 18.2-256 for the same transaction or occurrence.

69 **§ 18.2-250. Possession of controlled substances unlawful; penalties.**

70 A. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the
71 substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while
72 acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act
73 (§ 54.1-3400 et seq.).

74 Upon the prosecution of a person for a violation of this section, ownership or occupancy of *the* premises
75 or vehicle upon or in which a controlled substance was found shall not create a presumption that such person
76 either knowingly or intentionally possessed such controlled substance.

77 (a) Any person who violates this section with respect to any controlled substance classified in Schedule I
78 or II of the Drug Control Act ~~shall be~~ (§ 54.1-3400 et seq.) *is* guilty of a Class 5 felony, except that any
79 person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee
80 thereof who violates this section with respect to a cannabimimetic agent is guilty of a Class 1 misdemeanor.

81 (b) Any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an
82 employee thereof, who violates this section with respect to a controlled substance classified in Schedule III
83 ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

84 (b1) Violation of this section with respect to a controlled substance classified in Schedule IV shall be
85 punishable as a Class 2 misdemeanor.

86 (b2) Violation of this section with respect to a controlled substance classified in Schedule V shall be
87 punishable as a Class 3 misdemeanor.

88 (c) Violation of this section with respect to a controlled substance classified in Schedule VI shall be
89 punishable as a Class 4 misdemeanor.

90 B. The provisions of this section shall not apply to members of state, federal, county, city, or town
91 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of
92 dogs trained in the detection of controlled substances when possession of a controlled substance or substances
93 is necessary in the performance of their duties.

94 C. *No person shall be prosecuted for a violation of this section for possession of residue of a controlled
95 substance in violation of § 18.2-250.01, except as provided in subsection D of § 18.2-250.01.*

96 **§ 18.2-250.01. Possession of residue of a controlled substance unlawful; penalties.**

97 A. *As used in this section, "residue" means a sample of a controlled substance that is too small to be
98 weighed accurately as defined or reported by the Department of Forensic Science.*

99 B. *It is unlawful for any person to knowingly and intentionally possess residue of a controlled substance
100 unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a
101 practitioner while acting in the course of his professional practice, or except as otherwise authorized by the
102 Drug Control Act (§ 54.1-3400 et seq.).*

103 *Upon the prosecution of a person for a violation of this section, ownership or occupancy of the premises
104 or vehicle upon or in which residue of a controlled substance was found shall not create a presumption that
105 such person either knowingly or intentionally possessed such residue.*

106 C. *A violation of this section is punishable as follows:*

107 1. *Any person who possesses residue of a controlled substance classified in Schedule I or II of the Drug
108 Control Act (§ 54.1-3400 et seq.) is guilty of a Class 1 misdemeanor, except that any person other than an
109 inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof who violates this
110 section with respect to a cannabimimetic agent is guilty of a Class 2 misdemeanor.*

111 2. *Any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an
112 employee thereof who possesses residue of a controlled substance classified in Schedule III of the Drug
113 Control Act (§ 54.1-3400 et seq.) is guilty of a Class 2 misdemeanor.*

114 3. *Any person who possesses residue of a controlled substance classified in Schedule IV of the Drug
115 Control Act (§ 54.1-3400 et seq.) is guilty of a Class 3 misdemeanor.*

116 4. *Any person who possesses residue of a controlled substance classified in Schedule V or VI of the Drug
117 Control Act (§ 54.1-3400 et seq.) is guilty of a Class 4 misdemeanor.*

118 D. *This section shall not apply to the knowing and intentional possession of any residue of fentanyl,*

119 including its isomers, esters, ethers, salts, and salts of isomers, as described in Schedule II of the Drug
120 Control Act (§ 54.1-3400 et seq.), except as authorized in the Drug Control Act.

121 E. The provisions of this section shall not apply to members of state, federal, county, city, or town law-
122 enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of
123 dogs trained in the detection of controlled substances when possession of an item containing a controlled
124 substance or substances is necessary in the performance of their duties.

125 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance**
126 **abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;**
127 **violations; discharge.**

128 Whenever any person who has not previously been convicted of any criminal offense under this article or
129 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
130 depressant, or hallucinogenic drugs, with the exception of any misdemeanor conviction for possession of
131 marijuana, *possession of residue of a controlled substance, or possession or distribution of controlled*
132 *paraphernalia*, or has not previously had a proceeding against him for violation of such an offense dismissed
133 as provided in this section, except a dismissal of a misdemeanor offense for possession of marijuana, pleads
134 guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,
135 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of
136 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon
137 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether
138 the clerk of court has been provided with the fingerprint identification information or fingerprints of the
139 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints
140 and photograph of the person be taken by a law-enforcement officer.

141 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
142 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
143 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based
144 upon consideration of the substance abuse assessment. The program or services may be located in the judicial
145 district in which the charge is brought or in any other judicial district as the court may provide. The services
146 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental
147 Services, by a similar program which is made available through the Department of Corrections, (ii) a local
148 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program
149 certified by the Commission on VASAP.

150 The court shall require the person entering such program under the provisions of this section to pay all or
151 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,
152 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

153 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or
154 education program or services, (b) to remain drug and alcohol free during the period of probation and submit
155 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and
156 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a
157 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a
158 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel
159 of any program or agency approved by the supervising probation agency.

160 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
161 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
162 court has been provided with the fingerprint identification information or fingerprints of such person, the
163 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this
164 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section
165 in subsequent proceedings.

166 Notwithstanding any other provision of this section, whenever a court places an individual on probation
167 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of
168 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has
169 had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

170 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual**
171 **violence.**

172 A. For purposes of this section:

173 "Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws
174 pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

175 "Overdose" means a life-threatening condition resulting from the consumption or use of a controlled
176 substance, alcohol, or any combination of such substances.

177 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
178 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana
179 pursuant to § 4.1-1105.1, involuntary manslaughter pursuant to § 18.2-36.3, possession of a controlled
180 substance pursuant to § 18.2-250, *possession of residue of a controlled substance pursuant to § 18.2-250.01,*

181 intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to
182 § 54.1-3466 if:

183 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is
184 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;
185 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical
186 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in
187 § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as
188 defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or
189 assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid
190 antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or
191 obtains emergency medical attention in accordance with this subdivision;

192 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the
193 person requiring emergency medical attention has been transported until a law-enforcement officer responds
194 to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the
195 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

196 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
197 overdose; and

198 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
199 the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

200 C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
201 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana
202 pursuant to § 4.1-1105.1, possession of a controlled substance pursuant to § 18.2-250, *possession of residue*
203 *of a controlled substance pursuant to § 18.2-250.01*, intoxication in public pursuant to § 18.2-388, or
204 possession of controlled paraphernalia pursuant to § 54.1-3466 if:

205 1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from
206 emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in
207 § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual
208 violence committed against himself or another individual;

209 2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act
210 of sexual violence; and

211 3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
212 the individual seeking or obtaining medical attention, rendering care or assistance, or reporting to law
213 enforcement.

214 This subsection shall not apply to an individual who is alleged to have committed the act of sexual
215 violence.

216 D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
217 attention for himself or another individual, to a person experiencing an overdose or who has experienced an
218 act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a
219 person who renders emergency care or assistance to an individual experiencing an overdose or who has
220 experienced an act of sexual violence while another person seeks or obtains emergency medical attention
221 during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

222 E. This section does not establish protection from arrest or prosecution for any individual or offense other
223 than those listed in subsection B or C. However, any individual immune to arrest or prosecution under this
224 section shall not have his bail, probation, furlough, supervised release, suspended sentence, or parole revoked
225 for the behavior immune from arrest or prosecution under the provisions of this section.

226 F. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
227 determined that the person arrested was immune from prosecution under this section.

228 **§ 18.2-251.1. Possession or distribution of marijuana for medical purposes permitted.**

229 A. No person shall be prosecuted under § 18.2-250, *18.2-250.01*, or § 18.2-250.1 for the possession of
230 marijuana or tetrahydrocannabinol when that possession occurs pursuant to a valid prescription issued by a
231 medical doctor in the course of his professional practice for treatment of cancer or glaucoma.

232 B. No medical doctor shall be prosecuted under § 18.2-248 or § 18.2-248.1 for dispensing or distributing
233 marijuana or tetrahydrocannabinol for medical purposes when such action occurs in the course of his
234 professional practice for treatment of cancer or glaucoma.

235 C. No pharmacist shall be prosecuted under §§ § 18.2-248 ~~to~~, *18.2-248.01*, *18.2-248.05*, or 18.2-248.1 for
236 dispensing or distributing marijuana or tetrahydrocannabinol to any person who holds a valid prescription of
237 a medical doctor for such substance issued in the course of such doctor's professional practice for treatment of
238 cancer or glaucoma.

239 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

240 No school nurse employed by a local school board, person employed by a local health department who is
241 assigned to the public school pursuant to an agreement between the local health department and the school
242 board, or other person employed by or contracted with a local school board to deliver health-related services

243 shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250,
244 18.2-250.01, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
245 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who
246 has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

247 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**
248 **facilities; hospice and hospice facilities; assisted living facilities.**

249 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
250 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under
251 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, ~~or~~ 18.2-250, *or 18.2-250.01*, for the
252 possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis
253 oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in
254 accordance with § 4.1-1601.

255 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
256 **Department of Agriculture and Consumer Services, Department of Law employees.**

257 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
258 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a
259 federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing
260 required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,
261 18.2-248.1, 18.2-250, 18.2-250.01, or 18.2-255 for the possession or distribution of cannabis oil or industrial
262 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations
263 promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

264 B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law
265 shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, ~~or~~ 18.2-250, *or 18.2-250.01*, for the
266 possession or distribution of industrial hemp or any substance containing tetrahydrocannabinol when
267 possession of industrial hemp or any substance containing tetrahydrocannabinol is necessary in the
268 performance of his duties.

269 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses**
270 **prohibited.**

271 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses
272 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, subsection B of former § 18.2-248.1:1, or § 18.2-250 *or*
273 *18.2-250.01*, shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of
274 five years from the date of the second conviction and provided the person has not been convicted of any such
275 offense within that period, the ineligibility shall be removed.

276 **§ 19.2-327.15. Definitions.**

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

278 "Labor trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person
279 for labor or services through the use of force, fraud, or coercion for the purpose of subjection to debt
280 bondage, involuntary servitude, peonage, or slavery.

281 "Qualifying offense" means a conviction or adjudication of delinquency for any attempted, completed, or
282 conspired (i) violation of § 18.2-250 *or 18.2-250.01*, or (ii) misdemeanor violation of § 18.2-96, 18.2-102, or
283 18.2-103; subsection A of § 18.2-108; § 18.2-108.01, 18.2-117, 18.2-118, 18.2-119, 18.2-137, 18.2-146,
284 18.2-147, 18.2-160.2, 18.2-173, 18.2-178, 18.2-181, or 18.2-186.2; subdivision B 1 of § 18.2-186.3;
285 § 18.2-195, 18.2-197, 18.2-206, 18.2-258, 18.2-266.1, 18.2-346, 18.2-347, 18.2-349, 18.2-388, 18.2-415,
286 46.2-300, or 46.2-301; or subdivision A 1, 2, or 3 of § 46.2-346.

287 "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or
288 soliciting of a person for the purpose of a commercial sex act that is induced by force, fraud, or coercion or in
289 which the person induced to perform such act has not attained 18 years of age.

290 "Victim of human trafficking" means any person subjected to an act or the practice of labor trafficking or
291 sex trafficking, regardless of whether any other person has been charged or convicted of an offense related to
292 the labor trafficking or sex trafficking of such person.

293 **§ 32.1-45.4. Comprehensive harm reduction programs.**

294 A. The Commissioner or his designee may authorize the director of a local department of health, or any
295 other organization that promotes scientifically proven methods of mitigating health risks associated with drug
296 use and other high-risk behaviors, to establish and operate local or regional comprehensive harm reduction
297 programs that include the provision of sterile hypodermic needles and syringes and disposal of used
298 hypodermic needles and syringes. The objectives of such programs shall be to (i) reduce the spread of HIV,
299 viral hepatitis, and other blood-borne diseases in the Commonwealth; (ii) reduce the transmission of blood-
300 borne diseases through needlestick injuries to law-enforcement and other emergency personnel; (iii) provide
301 information to individuals who inject drugs regarding addiction recovery treatment services and encourage
302 such individuals to participate in evidence-based substance use treatment programs; (iv) prevent opioid
303 overdose deaths through distribution of naloxone or other opioid antagonists; and (v) incentivize the safe
304 return and disposal of hypodermic needles and syringes. Comprehensive harm reduction programs

305 established by the Commissioner pursuant to this section shall be operated by local health departments or
306 affiliated organizations with which the Department contracts.

307 B. A comprehensive harm reduction program established pursuant to this section shall include (i) the
308 disposal of used hypodermic needles and syringes; (ii) the provision of hypodermic needles and syringes and
309 other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and
310 other injection supplies are not shared or reused; (iii) reasonable and adequate security of program sites,
311 equipment, and personnel; (iv) the provision of educational materials concerning (a) substance use disorder
312 prevention, (b) overdose prevention, (c) the prevention of transmission of HIV, viral hepatitis, and other
313 blood-borne diseases, (d) available mental health treatment options, including referrals for mental health
314 treatment, and (e) available substance use disorder treatment options, which shall include options for
315 medication assisted treatment of substance use disorder, including referrals for treatment; (v) access to
316 overdose prevention kits that contain naloxone or other opioid antagonist approved by the U.S. Food and
317 Drug Administration for opioid overdose reversal; (vi) individual harm reduction counseling, including
318 individual consultations regarding appropriate mental health or substance use disorder treatment; and (vii)
319 verification that a hypodermic needle or syringe or other injection supplies were obtained from a
320 comprehensive harm reduction program established pursuant to this section.

321 C. The director of a local health department or representative of any other organization authorized to
322 establish a comprehensive harm reduction program pursuant to this section shall notify the Department, in a
323 manner and form specified by the Department, of his intent to establish a comprehensive harm reduction
324 program. Such notice shall include (i) the name of the local health department or organization that will
325 operate the comprehensive harm reduction program, (ii) a description of the geographic area and population
326 to be served by the comprehensive harm reduction program, and (iii) a description of the methods by which
327 the comprehensive harm reduction program will comply with the requirements of subsection B, including a
328 written security plan that provides for the reasonable and adequate security of the comprehensive harm
329 reduction program site, equipment, and personnel.

330 D. Written security plans required pursuant to clause (iii) of subsection C shall be filed annually with each
331 local law-enforcement agency serving the jurisdiction in which the comprehensive harm reduction program is
332 located for their consideration.

333 E. The provisions of §§ 18.2-250, 18.2-250.01, 18.2-265.3, and 54.1-3466 shall not apply to a person who
334 dispenses or distributes hypodermic needles and syringes as part of a comprehensive harm reduction program
335 established pursuant to this section.

336 F. The provisions of §§ 18.2-250, 18.2-250.01, 18.2-265.3, and 54.1-3466 relating to possession of a
337 controlled substance, *residue of a controlled substance*, drug paraphernalia, and controlled paraphernalia
338 shall not apply to any person acting on behalf or for the benefit of a comprehensive harm reduction program
339 when such possession is incidental to the provision of services as part of a comprehensive harm reduction
340 program established pursuant to this section.

341 G. The provisions of §§ 18.2-250, 18.2-250.01, 18.2-265.3, and 54.1-3466 relating to possession of a
342 controlled substance, *residue of a controlled substance*, drug paraphernalia, and controlled paraphernalia
343 shall not apply to any person receiving services from a comprehensive harm reduction program established
344 pursuant to this section, when (i) such controlled substance is a residual amount contained in a used needle,
345 used hypodermic syringe, or used injection supplies obtained from or returned to a comprehensive harm
346 reduction program established pursuant to this section, or (ii) such paraphernalia is obtained from a
347 comprehensive harm reduction program established pursuant to this section, as evidenced by the verification
348 required pursuant to clause (vii) of subsection B.

349 H. Every local health department or other organization operating a comprehensive harm reduction
350 program pursuant to this section shall report annually by July 1 to the Department regarding, for the previous
351 calendar year, (i) the number of individuals served by the comprehensive harm reduction program; (ii) the
352 number of needles, hypodermic syringes, and other injection supplies distributed by the comprehensive harm
353 reduction program; (iii) the number of overdose prevention kits described in clause (v) of subsection B
354 distributed by the comprehensive harm reduction program; and (iv) the number and type of referrals to
355 mental health or substance use disorder treatment services provided to individuals served by the
356 comprehensive harm reduction program, including the number of individuals referred to programs that
357 provide naloxone or other opioid antagonists approved by the U.S. Food and Drug Administration for opioid
358 overdose reversal.

359 I. Except in the case of a comprehensive harm reduction program established by the Commissioner, no
360 state funds shall be used to purchase needles or hypodermic syringes distributed by a comprehensive harm
361 reduction program established pursuant to this section.

362 **§ 54.1-3466. Possession or distribution of controlled paraphernalia; definition of controlled**
363 **paraphernalia; evidence; exceptions; penalty.**

364 A. For purposes of this chapter, "controlled paraphernalia" means (i) a hypodermic syringe, needle, or
365 other instrument or implement or combination thereof adapted for the administration of controlled dangerous
366 substances by hypodermic injections under circumstances that reasonably indicate an intention to use such

367 controlled paraphernalia for purposes of illegally administering any controlled drug or (ii) gelatin capsules,
368 glassine envelopes, or any other container suitable for the packaging of individual quantities of controlled
369 drugs in sufficient quantity to and under circumstances that reasonably indicate an intention to use any such
370 item for the illegal manufacture, distribution, or dispensing of any such controlled drug. Evidence of such
371 circumstances shall include, but not be limited to, close proximity of any such controlled paraphernalia to any
372 adulterants or equipment commonly used in the illegal manufacture and distribution of controlled drugs
373 including scales, sieves, strainers, measuring spoons, staples and staplers, or procaine hydrochloride,
374 mannitol, lactose, quinine, or any controlled drug, or any machine, equipment, instrument, implement,
375 device, or combination thereof that is adapted for the production of controlled drugs under circumstances that
376 reasonably indicate an intention to use such item or combination thereof to produce, sell, or dispense any
377 controlled drug in violation of the provisions of this chapter. "Controlled paraphernalia" does not include
378 drug checking products used to determine the presence or concentration of a contaminant that can cause
379 physical harm or death.

380 B. Except as authorized in this chapter, it is unlawful for any person to possess controlled paraphernalia.

381 C. Except as authorized in this chapter, it is unlawful for any person to distribute controlled paraphernalia.

382 D. A violation of this section is a Class 1 misdemeanor.

383 E. The provisions of this section shall not apply to persons who have acquired possession and control of
384 controlled paraphernalia in accordance with the provisions of this article or to any person who owns or is
385 engaged in breeding or raising livestock, poultry, or other animals to which hypodermic injections are
386 customarily given in the interest of health, safety, or good husbandry; or to hospitals, physicians, pharmacists,
387 dentists, podiatrists, veterinarians, funeral directors and embalmers, persons to whom a permit has been
388 issued, manufacturers, wholesalers, or their authorized agents or employees when in the usual course of their
389 business, if the controlled paraphernalia lawfully obtained continue to be used for the legitimate purposes for
390 which they were obtained.

391 F. The provisions of this section and of § 18.2-265.3 shall not apply to (i) a person who dispenses
392 naloxone in accordance with the provisions of subsection Z of § 54.1-3408 and who, in conjunction with such
393 dispensing of naloxone, dispenses or distributes hypodermic needles and syringes for injecting such naloxone
394 or (ii) a person who possesses naloxone that has been dispensed in accordance with the provisions of
395 subsection Z of § 54.1-3408 and possesses hypodermic needles and syringes for injecting such naloxone in
396 conjunction with such possession of naloxone.

397 G. The provisions of this section and of § 18.2-265.3 shall not apply to (i) a person who possesses or
398 distributes controlled paraphernalia on behalf of or for the benefit of a comprehensive harm reduction
399 program established pursuant to § 32.1-45.4 or (ii) a person who possesses controlled paraphernalia obtained
400 from a comprehensive harm reduction program established pursuant to § 32.1-45.4.

401 *H. No person shall be prosecuted for a violation of this section for possession of residue of a controlled*
402 *substance in violation of § 18.2-250.01 except as provided in subsection D of § 18.2-250.01.*