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HOUSE BILL NO. 642
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Joint Conference Committee
on March 13, 2026)
(Patron Prior to Substitute—Delegate Krizek)

A *BILL* to amend and reenact §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 3.2-4112, 3.2-4113, 3.2-4116, 3.2-4126, 3.2-5145.1, 3.2-5145.2:1, 3.2-5145.4, 4.1-103, 4.1-105, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1600 through 4.1-1603.2, 4.1-1604, 5.1-13, 9.1-1101, 15.2-912.4, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 19.2-392.6 and 19.2-392.12:1, as they shall become effective, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3401, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1010, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1407, by adding a section numbered 4.1-1602.1, by adding in Title 4.1 a chapter numbered 17, consisting of sections numbered 4.1-1700 through 4.1-1705, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal Article 4 (§§ 3.2-4122 through 3.2-4126) of Chapter 41.1 of Title 3.2 and §§ 3.2-5145.4:1, 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 3.2-4112, 3.2-4113, 3.2-4116, 3.2-4126, 3.2-5145.1, 3.2-5145.2:1, 3.2-5145.4, 4.1-103, 4.1-105, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1600 through 4.1-1603.2, 4.1-1604, 5.1-13, 9.1-1101, 15.2-912.4, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 19.2-392.6 and 19.2-392.12:1 as they shall become effective, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3401, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1010, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1407, by adding a section numbered 4.1-1602.1, by adding in Title 4.1 a chapter numbered 17, consisting of sections numbered 4.1-1700 through 4.1-1705, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426 as follows:

§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest

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60 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the
 61 Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall
 62 remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:

63 1. Supporting persons, families, and communities historically and disproportionately targeted and affected
 64 by drug enforcement;

65 2. Providing scholarship opportunities and educational and vocational resources for historically
 66 marginalized persons, including persons in foster care, who have been adversely impacted by substance use
 67 individually, in their families, or in their communities;

68 3. Awarding grants to support workforce development, mentoring programs, job training and placement
 69 services, apprenticeships, and reentry services that serve persons and communities historically and
 70 disproportionately targeted by drug enforcement.

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

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

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

78 **§ 2.2-2818. Health and related insurance for state employees.**

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

89 Such contribution shall be financed through appropriations provided by law.

90 B. The plan shall:

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

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

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

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

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

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

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

119 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the
 120 resolution of such complaints and shall be published and disseminated to all covered state employees. The
 121 appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured

122 governmental health plans. The appeals process shall include a separate expedited emergency appeals
 123 procedure that shall provide resolution within time frames established by federal law. For appeals involving
 124 adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent
 125 review organizations to review such decisions. Independent review organizations are entities that conduct
 126 independent external review of adverse benefit determinations. The Department shall adopt regulations to
 127 assure that the independent review organization conducting the reviews has adequate standards, credentials,
 128 and experience for such review. The independent review organization shall examine the final denial of claims
 129 to determine whether the decision is objective, clinically valid, and compatible with established principles of
 130 health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings
 131 of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if
 132 consistent with law and policy.

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

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

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

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

159 6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use
 160 in the treatment of cancer on the basis that the drug has not been approved by the United States Food and
 161 Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if
 162 the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the
 163 standard reference compendia.

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

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

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

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

181 11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient
 182 following a radical or modified radical mastectomy and 24 hours of inpatient care following a total
 183 mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in

184 this subdivision shall be construed as requiring the provision of inpatient coverage where the attending
185 physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

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

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

209 14. Include provisions allowing employees to continue receiving health care services for a period of up to
210 90 days from the date of the primary care physician's notice of termination from any of the plan's provider
211 panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider,
212 except when the provider is terminated for cause.

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

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

223 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering
224 health services to any covered employee who is determined to be terminally ill (as defined under §
225 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except
226 when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for
227 the remainder of the employee's life for care directly related to the treatment of the terminal illness.

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

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

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

237 For purposes of this subdivision:

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

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

243 "Multiple project assurance contract" means a contract between an institution and the federal Department
244 of Health and Human Services that defines the relationship of the institution to the federal Department of

245 Health and Human Services and sets out the responsibilities of the institution and the procedures that will be
246 used by the institution to protect human subjects.

247 "NCI" means the National Cancer Institute.

248 "NIH" means the National Institutes of Health.

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

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

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

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

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

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

267 Coverage under this subdivision shall apply only if:

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

274 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered
275 employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee
276 following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines.
277 Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when
278 the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is
279 appropriate.

280 17. Include coverage for biologically based mental illness.

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

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

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

296 18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery
297 or such other methods as may be recognized by the National Institutes of Health as effective for the long-term
298 reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments,
299 and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for
300 morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National
301 Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100
302 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan
303 Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared
304 with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep
305 apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used

306 herein, "BMI" equals weight in kilograms divided by height in meters squared.

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

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

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

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

330 C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such
 331 funds as shall be appropriated by law. Appropriations, premiums, and other payments shall be deposited in
 332 the employee health insurance fund, from which payments for claims, premiums, cost containment programs,
 333 and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund
 334 shall be deemed separate and independent trust funds, shall be segregated from all other funds of the
 335 Commonwealth, and shall be invested and administered solely in the interests of the employees and their
 336 beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or
 337 authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and
 338 administrative expenses, including ~~but not limited to~~ legislative oversight of the health insurance fund.

339 D. For the purposes of this section:

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

346 "Standard reference compendia" means:

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

350 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201;
 351 the Governor, Lieutenant Governor, and Attorney General; judge as defined in § 51.1-301 and judges, clerks,
 352 and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and
 353 district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital
 354 of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth
 355 University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic
 356 Beverage Control Authority as provided in § 4.1-101.05 *and the Virginia Cannabis Control Authority as*
 357 *provided in § 4.1-623.*

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

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

365 G. The plan shall include, in each planning district, at least two health coverage options, each sponsored
 366 by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each
 367 planning district shall be a high deductible health plan that would qualify for a health savings account

368 pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

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

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

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

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

404 The Ombudsman shall:

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

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

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

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

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

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

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

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

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

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

428 For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage

429 reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until
 430 the covered employee notifies the plan in writing of the assignment.

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

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

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

447 Q. The plan established in accordance with this section that follows a policy of sending its payment to the
 448 covered employee or covered family member for a claim for services received from a nonparticipating
 449 physician or osteopath shall (i) include language in the member handbook that notifies the covered employee
 450 of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include
 451 this language with any such payment sent to the covered employee or covered family member, and (iii)
 452 include the name and any last known address of the nonparticipating provider on the explanation of benefits
 453 statement.

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

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

462 S. The Department of Human Resource Management shall report annually, by November 30 of each year,
 463 on cost and utilization information for each of the mandated benefits set forth in subsection B, including any
 464 mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this
 465 section. The report shall be in the same detail and form as required of reports submitted pursuant to
 466 § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the
 467 costs and benefits, of the particular mandated benefit.

468 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

469 The provisions of this chapter shall not apply to:

- 470 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 471 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 472 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house
 473 thereof is required or not;
- 474 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 475 5. Members of boards and commissions however selected;
- 476 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
 477 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries
 478 public;
- 479 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
 480 special inquiries, investigations, or examinations on its behalf;
- 481 8. The presidents and teaching and research staffs of state educational institutions;
- 482 9. Commissioned officers and enlisted personnel of the National Guard;
- 483 10. Student employees at institutions of higher education and patient or inmate help in other state
 484 institutions;
- 485 11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees
 486 compensated on an hourly or daily basis;
- 487 12. County, city, town, and district officers, deputies, assistants, and employees;
- 488 13. The employees of the Virginia Workers' Compensation Commission;
- 489 14. The officers and employees of the Virginia Retirement System;
- 490 15. Employees whose positions are identified by the State Council of Higher Education and the boards of

491 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,
492 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,
493 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of
494 the Department of Human Resource Management as requiring specialized and professional training;

495 16. Employees of the Virginia Lottery;

496 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and
497 service industries who have a human resources classification of industry worker;

498 18. Employees of the Virginia Commonwealth University Health System Authority;

499 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such
500 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.
501 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center
502 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State
503 Grievance Procedure (§ 2.2-3000 et seq.);

504 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,
505 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy
506 or administration. An employee serving in either one of these two positions shall be deemed to serve on an
507 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

508 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
509 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

510 22. Officers and employees of the Virginia Port Authority;

511 23. Employees of the Commonwealth Savers Plan;

512 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
513 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to
514 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
515 (§ 2.2-3000 et seq.);

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

519 26. Employees of the Virginia Indigent Defense Commission;

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

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

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

526 30. Officers and employees of the Fort Monroe Authority.

527 **§ 2.2-3114. Disclosure by state officers and employees.**

528 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor,
529 Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court,
530 judges and substitute judges of any district court, members of the State Corporation Commission, members of
531 the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board,
532 members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of
533 the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia*
534 *Cannabis Control Authority*, members of the board of directors of the Commonwealth of Virginia Innovation
535 Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the
536 Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state
537 government, including members of the governing bodies of authorities, as may be designated by the
538 Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules
539 Committee of the General Assembly, shall file with the Council, as a condition to assuming office or
540 employment, a disclosure statement of their personal interests and such other information as is required on
541 the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually
542 on or before February 1.

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

553 prescribed by the Council pursuant to § 2.2-3118.

554 C. The disclosure forms required by subsections A and B shall be made available by the Council at least
555 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in
556 accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public
557 records for five years in the office of the Council. Such forms shall be made public no later than six weeks
558 after the filing deadline.

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

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

569 F. An officer or employee of state government who is required to declare his interest pursuant to
570 subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature
571 of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a
572 business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that
573 he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or
574 employee shall either make his declaration orally to be recorded in written minutes for his agency or file a
575 signed written declaration with the clerk or administrative head of his governmental or advisory agency, as
576 appropriate, who shall, in either case, retain and make available for public inspection such declaration for a
577 period of five years from the date of recording or receipt. If reasonable time is not available to comply with
578 the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare
579 and file the required declaration by the end of the next business day.

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

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

593 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

595 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
596 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
597 officers, appointees, or employees of any public body; and evaluation of performance of departments or
598 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
599 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
600 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
601 student and the student involved in the matter is present, provided that the teacher makes a written request to
602 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
603 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
604 compensation matters that affect the membership of such body or board collectively.

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

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

- 615 4. The protection of the privacy of individuals in personal matters not related to public business.
- 616 5. Discussion concerning a prospective business or industry or the expansion of an existing business or
- 617 industry where no previous announcement has been made of the business' or industry's interest in locating or
- 618 expanding its facilities in the community.
- 619 6. Discussion or consideration of the investment of public funds where competition or bargaining is
- 620 involved, where, if made public initially, the financial interest of the governmental unit would be adversely
- 621 affected.
- 622 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or
- 623 probable litigation, where such consultation or briefing in open meeting would adversely affect the
- 624 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"
- 625 means litigation that has been specifically threatened or on which the public body or its legal counsel has a
- 626 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall
- 627 be construed to permit the closure of a meeting merely because an attorney representing the public body is in
- 628 attendance or is consulted on a matter.
- 629 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
- 630 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
- 631 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
- 632 consulted on a matter.
- 633 9. Discussion or consideration by governing boards of public institutions of higher education of matters
- 634 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
- 635 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
- 636 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
- 637 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
- 638 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
- 639 means any government other than the United States government or the government of a state or a political
- 640 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
- 641 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
- 642 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
- 643 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
- 644 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
- 645 or protectorate thereof.
- 646 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
- 647 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
- 648 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
- 649 sources.
- 650 11. Discussion or consideration of honorary degrees or special awards.
- 651 12. Discussion or consideration of tests, examinations, or other information used, administered, or
- 652 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.
- 653 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
- 654 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
- 655 by the member, provided that the member may request in writing that the committee meeting not be
- 656 conducted in a closed meeting.
- 657 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
- 658 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
- 659 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
- 660 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
- 661 All discussions with the applicant or its representatives may be conducted in a closed meeting.
- 662 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
- 663 activity and estimating general and nongeneral fund revenues.
- 664 16. Discussion or consideration of medical and mental health records subject to the exclusion in
- 665 subdivision 1 of § 2.2-3705.5.
- 666 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
- 667 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
- 668 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
- 669 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and
- 670 subdivision 11 of § 2.2-3705.7.
- 671 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
- 672 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
- 673 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
- 674 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
- 675 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.
- 676 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity

677 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
678 service officials concerning actions taken to respond to such matters or a related threat to public safety;
679 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
680 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
681 information technology system, or software program; or discussion of reports or plans related to the security
682 of any governmental facility, building or structure, or the safety of persons using such facility, building or
683 structure.

684 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
685 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
686 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
687 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
688 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
689 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
690 other ownership interest in an entity, where such security or ownership interest is not traded on a
691 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
692 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
693 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
694 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
695 confidentiality, of the future value of such ownership interest or the future financial performance of the
696 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
697 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
698 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
699 disclosure of information relating to the identity of any investment held, the amount invested or the present
700 value of such investment.

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

714 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
715 University, as the case may be, and those portions of meetings of any persons to whom management
716 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
717 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
718 business-related information pertaining to the operations of the University of Virginia Medical Center or the
719 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
720 development or marketing strategies and activities with existing or future joint venturers, partners, or other
721 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
722 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
723 health care, if disclosure of such information would adversely affect the competitive position of the
724 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
725 University, as the case may be.

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

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

738 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal

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

742 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 743 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
 744 § 56-484.12, related to the provision of wireless E-911 service.

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

751 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
 752 by a responsible public entity or an affected locality or public entity, as those terms are defined in
 753 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
 754 public entity concerning such records.

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

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

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

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

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

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

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

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

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

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

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

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

791 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
 792 executive order for the purpose of studying and making recommendations regarding preventing closure or
 793 realignment of federal military and national security installations and facilities located in Virginia and
 794 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
 795 local governing body, during which there is discussion of information subject to the exclusion in subdivision
 796 8 of § 2.2-3705.2.

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

800 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of

801 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
802 in grant applications.

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

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

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

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

820 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
821 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
822 Board.

823 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
824 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
825 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
826 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
827 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
828 pursuant to § 15.2-1627.6.

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

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

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

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

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

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

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

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

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

860 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
861 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
862 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial

863 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
 864 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
 865 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
 866 actual date of the board's authorization of the sale or issuance of such bonds.

867 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

869 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 870 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 871 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 872 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
 873 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
 874 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
 875 student and the student involved in the matter is present, provided that the teacher makes a written request to
 876 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
 877 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
 878 compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

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

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

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

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

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

931 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
932 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
933 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
934 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
935 All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

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

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

958 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
959 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
960 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
961 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
962 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
963 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
964 other ownership interest in an entity, where such security or ownership interest is not traded on a
965 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
966 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
967 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
968 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
969 confidentiality, of the future value of such ownership interest or the future financial performance of the
970 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
971 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
972 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
973 disclosure of information relating to the identity of any investment held, the amount invested or the present
974 value of such investment.

975 21. Those portions of meetings in which individual child death cases are discussed by the State Child
976 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
977 child death cases are discussed by a regional or local child fatality review team established pursuant to
978 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
979 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
980 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
981 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
982 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
983 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
984 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
985 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
986 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review

987 Committee established pursuant to § 37.2-314.1.

988 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
 989 University, as the case may be, and those portions of meetings of any persons to whom management
 990 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 991 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
 992 business-related information pertaining to the operations of the University of Virginia Medical Center or the
 993 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
 994 development or marketing strategies and activities with existing or future joint venturers, partners, or other
 995 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
 996 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
 997 health care, if disclosure of such information would adversely affect the competitive position of the
 998 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
 999 University, as the case may be.

1000 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
 1001 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 1002 disposition by the Authority of real property, equipment, or technology software or hardware and related
 1003 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
 1004 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
 1005 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
 1006 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
 1007 the Authority; and members of the Authority's medical and teaching staffs and qualifications for
 1008 appointments thereto.

1009 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
 1010 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
 1011 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1012 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal
 1013 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
 1014 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
 1015 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1016 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 1017 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
 1018 § 56-484.12, related to the provision of wireless E-911 service.

1019 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
 1020 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
 1021 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or
 1022 meetings of health regulatory boards or conference committees of such boards to consider settlement
 1023 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by
 1024 either of the parties.

1025 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
 1026 by a responsible public entity or an affected locality or public entity, as those terms are defined in
 1027 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
 1028 public entity concerning such records.

1029 29. Discussion of the award of a public contract involving the expenditure of public funds, including
 1030 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in
 1031 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

1032 30. Discussion or consideration of grant or loan application information subject to the exclusion in
 1033 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1034 31. Discussion or consideration by the Commitment Review Committee of information subject to the
 1035 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
 1036 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1037 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
 1038 held by a local public body providing certain telecommunication services or cable television services and
 1039 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
 1040 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

1041 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
 1042 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
 1043 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1044 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
 1045 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections
 1046 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

1047 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
 1048 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

1049 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
1050 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
1051 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
1052 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
1053 scholarship awards.

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1055 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
1056 Authority.

1057 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1058 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
1059 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
1060 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee
1061 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

1062 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
1063 related to economic development.

1064 40. Discussion or consideration by the Board of Education of information relating to the denial,
1065 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1066 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
1067 executive order for the purpose of studying and making recommendations regarding preventing closure or
1068 realignment of federal military and national security installations and facilities located in Virginia and
1069 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
1070 local governing body, during which there is discussion of information subject to the exclusion in subdivision
1071 8 of § 2.2-3705.2.

1072 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1073 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1074 information of donors.

1075 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
1076 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
1077 in grant applications.

1078 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
1079 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
1080 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
1081 information of a private entity provided to the Authority.

1082 45. Discussion or consideration of personal and proprietary information related to the resource
1083 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
1084 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
1085 information that has been certified for release by the person who is the subject of the information or
1086 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
1087 or is the subject of, the information.

1088 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
1089 Authority or the Board of Directors of the Virginia Cannabis Control Authority of information subject to the
1090 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and
1091 of licensees and permittees.

1092 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
1093 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
1094 of Chapter 22.

1095 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
1096 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
1097 Board.

1098 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
1099 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
1100 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
1101 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
1102 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
1103 pursuant to § 15.2-1627.6.

1104 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
1105 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
1106 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
1107 of § 2.2-3705.7.

1108 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
1109 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
1110 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the

1111 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.
 1112 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
 1113 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
 1114 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.
 1115 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
 1116 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
 1117 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
 1118 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.
 1119 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
 1120 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
 1121 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
 1122 disclosure under subdivision 1 of § 2.2-3705.3.
 1123 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
 1124 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.
 1125 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
 1126 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
 1127 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
 1128 shall have its substance reasonably identified in the open meeting.
 1129 C. Public officers improperly selected due to the failure of the public body to comply with the other
 1130 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 1131 obtain notice of the legal defect in their election.
 1132 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
 1133 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
 1134 holding closed meetings as are applicable to any other public body.
 1135 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
 1136 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
 1137 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
 1138 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
 1139 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
 1140 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
 1141 actual date of the board's authorization of the sale or issuance of such bonds.
 1142 **§ 2.2-3802. Systems to which chapter inapplicable.**
 1143 The provisions of this chapter shall not apply to personal information systems:
 1144 1. Maintained by any court of the Commonwealth;
 1145 2. Which may exist in publications of general circulation;
 1146 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in
 1147 the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant
 1148 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on
 1149 the Internet pursuant to § 9.1-913;
 1150 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
 1151 16.1-225;
 1152 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to
 1153 engage in the practice of any profession, in which case the names and addresses of persons applying for or
 1154 possessing the license may be disseminated upon written request to a person engaged in the profession or
 1155 business of offering professional educational materials or courses for the sole purpose of providing the
 1156 licensees or applicants for licenses with informational materials relating solely to available professional
 1157 educational materials or courses, provided the disseminating agency is reasonably assured that the use of the
 1158 information will be so limited;
 1159 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,
 1160 the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, ~~and~~ the Virginia Alcoholic
 1161 Beverage Control Authority, *and the Virginia Cannabis Control Authority*;
 1162 7. Maintained by any of the following and that deal with investigations and intelligence gathering related
 1163 to criminal activity:
 1164 a. The Department of State Police;
 1165 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 1166 c. Police departments of cities, counties, and towns;
 1167 d. Sheriff's departments of counties and cities;
 1168 e. Campus police departments of public institutions of higher education as established by Article 3
 1169 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
 1170 f. The Division of Capitol Police.
 1171 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect
 1172 while such cases are also subject to an ongoing criminal prosecution;

- 1173 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
- 1174 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of
1175 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
1176 information on those subjects may be disseminated upon written request to a person engaged in the business
1177 of providing travel services or distributing travel information, provided the Virginia Tourism Authority is
1178 reasonably assured that the use of the information will be so limited;
- 1179 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General
1180 Services and the Department of Forensic Science, which deal with scientific investigations relating to
1181 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
- 1182 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal
1183 with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
1184 (§ 2.2-307 et seq.);
- 1185 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state
1186 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and
1187 Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a
1188 school board that deals with local investigations required by § 15.2-2511.2;
- 1189 14. Maintained by the Department of Social Services or any local department of social services relating to
1190 public assistance fraud investigations;
- 1191 15. Maintained by the Department of Social Services related to child welfare or public assistance
1192 programs when requests for personal information are made to the Department of Social Services. Requests
1193 for information from these systems shall be made to the appropriate local department of social services that is
1194 the custodian of that record. Notwithstanding the language in this section, an individual shall not be
1195 prohibited from obtaining information from the central registry in accordance with the provisions of
1196 § 63.2-1515; and
- 1197 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult
1198 protective services, or auxiliary grants when requests for personal information are made to the Department for
1199 Aging and Rehabilitative Services. Requests for information from these systems shall be made to the
1200 appropriate local department of social services that is the custodian of that record.
- 1201 **§ 2.2-4024. Hearing officers.**
- 1202 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a
1203 hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained
1204 in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings
1205 conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside
1206 at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may
1207 promulgate rules necessary for the administration of the hearing officer system and shall have the authority to
1208 establish the number of hearing officers necessary to preside over administrative hearings in the
1209 Commonwealth.
- 1210 Prior to being included on the list, all hearing officers shall meet the following minimum standards:
- 1211 1. Active membership in good standing in the Virginia State Bar;
- 1212 2. Active practice of law for at least five years; and
- 1213 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order
1214 to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive
1215 Secretary may require additional training before a hearing officer shall be assigned to a proceeding before
1216 that agency.
- 1217 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the
1218 list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic
1219 preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency
1220 demonstrates the need.
- 1221 C. A hearing officer appointed in accordance with this section shall be subject to disqualification as
1222 provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1,
1223 the petitioning party may request reconsideration of the denial by filing a written request with the Executive
1224 Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the
1225 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule
1226 of practice requiring disqualification.
- 1227 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.
- 1228 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case
1229 decision matter shall render that recommendation or conclusion as follows:
- 1230 1. If the agency's written regulations or procedures require the hearing officer to render a recommendation
1231 or conclusion within a specified time period, the hearing officer shall render the recommendation or
1232 conclusion on or before the expiration of the specified period; and
- 1233 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days
1234 from the date of the case decision proceeding or from a later date agreed to by the named party and the

1235 agency.

1236 If the hearing officer does not render a decision within the time required by this subsection, then the
 1237 agency or the named party to the case decision may provide written notice to the hearing officer and the
 1238 Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from
 1239 receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove
 1240 the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for
 1241 possible disciplinary action, unless good cause is shown for the delay.

1242 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after
 1243 written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a
 1244 decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the
 1245 delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for
 1246 reconsideration, followed by judicial review in accordance with this chapter.

1247 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the
 1248 members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia*
 1249 *Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation
 1250 Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2
 1251 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle
 1252 Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory
 1253 board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to
 1254 the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the
 1255 Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the
 1256 minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in
 1257 the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall
 1258 participate in periodic training courses.

1259 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing
 1260 officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources,
 1261 the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority
 1262 pursuant to their basic laws.

1263 *PART D.*
 1264 *STATE AND TRIBAL RELATIONS.*
 1265 *CHAPTER 61.*
 1266 *GENERAL PROVISIONS.*

1267 **§ 2.2-6100. Governor compacts with tribal government; marijuana; requirements.**

1268 *A. For the purpose of this section:*

1269 *"Marijuana" means the same as that term is defined in § 4.1-600.*

1270 *"Marijuana establishment" means the same as that term is defined in § 4.1-600.*

1271 *"Marijuana industry" means every item, product, person, process, action, business, or other thing or*
 1272 *activity related to marijuana or marijuana products and subject to regulation under the law of a Virginia*
 1273 *Tribal government or under a compact entered into under this section.*

1274 *"Marijuana products" means the same as that term is defined in § 4.1-600.*

1275 *"Tribal marijuana business" means a marijuana cultivation facility, microbusiness, delivery operator,*
 1276 *testing facility, processing facility, transporter, or retail marijuana store licensed by a Virginia Tribal*
 1277 *government, as well as any other marijuana-related business that may be provided or licensed under the laws*
 1278 *of a Virginia Tribal government.*

1279 *"Tribally regulated land" means (i) all land held in trust by the United States for the benefit of a Virginia*
 1280 *Tribal government, also known as trust land, and (ii) all land held by a Virginia Tribal government in*
 1281 *restricted fee status.*

1282 *"Virginia Tribal government" means the following federally recognized Indian Tribes located in the*
 1283 *Commonwealth:*

- 1284 1. Chickahominy Indian Tribe;
- 1285 2. Chickahominy Indian Tribe-Eastern Division;
- 1286 3. Monacan Indian Nation;
- 1287 4. Nansemond Indian Nation;
- 1288 5. Pamunkey Indian Tribe;
- 1289 6. Rappahannock Indian Tribe;
- 1290 7. Upper Mattaponi Tribe.

1291 *B. The Commonwealth acknowledges the sovereign right of Virginia Tribal governments to regulate the*
 1292 *marijuana industry and address other matters of marijuana regulation related to the internal affairs of*
 1293 *Virginia Tribal governments or otherwise on Tribally regulated land, without regard to whether such*
 1294 *Virginia Tribal government has entered into a compact authorized by this section. The Governor or his*
 1295 *designee shall negotiate in good faith and has the authority to execute and bind the Commonwealth to a*
 1296 *compact with any Virginia Tribal government wishing to enter into such compact regulating marijuana and*

1297 *marijuana products.*

1298 *C. A compact agreed to under this section may address any issues related to the marijuana industry that*
1299 *affect the interests of both the Commonwealth and Virginia Tribal governments or otherwise have an impact*
1300 *on Tribal-state relations. Indian tribes are not required to enter into compacts pursuant to this section in*
1301 *order to (i) regulate the marijuana industry or engage in marijuana businesses or activities on Tribally*
1302 *regulated lands or (ii) participate as a licensee in the Commonwealth's legal marijuana market.*

1303 *D. The Commonwealth shall not, as a condition for entering into a compact under this section:*

1304 *1. Require any Virginia Tribal government to waive any right, privilege, or immunity based on their status*
1305 *as independent sovereigns;*

1306 *2. Require that any revenue generated by a Tribal marijuana business be subject to any license or*
1307 *privilege tax imposed by a locality pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 or any taxes*
1308 *authorized pursuant to § 4.1-1004;*

1309 *3. Require any taxes collected by Virginia Tribal governments to be shared in any manner with the*
1310 *Commonwealth or any political subdivisions thereof;*

1311 *4. Require a Virginia Tribal government to consent to state licensing of marijuana businesses on the*
1312 *Tribally regulated land;*

1313 *5. Require any Virginia Tribal government or Tribal marijuana business to comply with specific state law*
1314 *or regulations on Tribally regulated land; or*

1315 *6. Impose or attempt to impose or require or attempt to require any Virginia Tribal government to impose*
1316 *any taxes, fees, assessments, and other charges related to the cultivation, processing, sale, purchase,*
1317 *transportation, delivery, or possession of marijuana or marijuana products on Virginia Tribal governments*
1318 *or their members on Tribally regulated land.*

1319 *E. Compacts agreed to under this section may allow an exemption from any otherwise applicable tax for*
1320 *(i) sales to a Virginia Tribal government, a Tribal marijuana business, or Tribal members of marijuana or*
1321 *marijuana products cultivated or processed as provided for in such compacts or (ii) activities of Tribal*
1322 *marijuana businesses.*

1323 *F. Without limiting any immunity or exemption that may apply under federal law, the following acts, when*
1324 *performed by a Tribal marijuana business or an employee in the course of their employment for a Tribal*
1325 *marijuana business, pursuant to a compact entered into pursuant to this section, do not constitute a criminal*
1326 *or civil offense under state law:*

1327 *1. The cultivation of marijuana and the processing of marijuana or marijuana products;*

1328 *2. The possession, purchase, and receipt of marijuana or marijuana products that are properly tested,*
1329 *packaged, and labeled as authorized under a compact entered into pursuant to this section or the sale,*
1330 *delivery, transport, or distribution of such marijuana or marijuana products to a licensed marijuana*
1331 *establishment; and*

1332 *3. The delivery, distribution, or sale of marijuana or marijuana products as authorized under a compact*
1333 *entered into pursuant to this section and that takes place on, or originates from, the premises of a Tribal*
1334 *marijuana business on Tribally regulated land, to any person 21 years of age or older.*

1335 *G. The following acts, when performed by a patron of a Tribal marijuana business, do not constitute a*
1336 *criminal or civil offense under state law: the purchase, possession, or receipt of marijuana or marijuana*
1337 *products by a person 21 years of age or older as authorized under a compact entered into pursuant to this*
1338 *section.*

1339 *H. Without limiting any immunity or exemption that may apply under federal law, actions by a Tribal*
1340 *marijuana business or a Tribal member, employee, or agent of a Virginia Tribal government or Tribal*
1341 *marijuana business on Tribally regulated land pursuant to Tribal laws governing marijuana, or a compact*
1342 *entered into under this section, do not constitute a criminal or civil offense under state law.*

1343 *I. The following acts, when performed by a licensed marijuana establishment or an employee of such*
1344 *licensed marijuana establishment, and which would be permitted pursuant to the Cannabis Control Act*
1345 *(§ 4.1-600 et seq.) if undertaken with another licensed marijuana establishment, shall be permitted when*
1346 *undertaken with a Tribal marijuana business and do not constitute a criminal or civil offense under state law:*
1347 *the possession, purchase, wholesale and retail sale, delivery, transport, distribution, and receipt of marijuana*
1348 *or marijuana products that are properly tested, packaged, and labeled as authorized under a compact*
1349 *entered into pursuant to this section.*

1350 *J. Without limiting any immunity or exemption that may apply under federal law, the following acts, when*
1351 *performed by a Virginia Tribal government, a Tribal marijuana business, or an employee of such Tribal*
1352 *government or Tribal marijuana business, regardless of whether the Virginia Tribal government issuing such*
1353 *license has entered into a compact with the Commonwealth under this section, do not constitute a criminal or*
1354 *civil offense under state law: purchase, sale, receipt, or delivery, including delivery that involves transit*
1355 *through the Commonwealth outside a reservation, of marijuana or marijuana products from or to another*
1356 *Virginia Tribal government or Tribal marijuana business.*

1357 *K. Notwithstanding any other provision of law, a marijuana testing facility, as defined in § 4.1-600, may*
1358 *provide testing services to a Tribal marijuana business and the possession or transport of marijuana or*

1359 *marijuana products for such purpose by a Tribal marijuana business shall not constitute a criminal or civil*
 1360 *offense under state law.*

1361 *L. The Governor shall post any compact entered into pursuant this section on a publicly accessible*
 1362 *website.*

1363 **§ 3.2-4112. Definitions.**

1364 As used in this chapter, unless the context requires a different meaning:

1365 "Cannabis sativa product" means a product made from any part of the plant Cannabis sativa with a
 1366 concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

1367 "Edible hemp product" means any hemp product that is or includes an industrial hemp extract, as defined
 1368 in § 3.2-5145.1, and that is intended to be consumed orally.

1369 "Federally licensed hemp producer" means a person who holds a hemp producer license issued by the
 1370 U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

1371 "Grow" means to plant, cultivate, or harvest a plant or crop.

1372 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

1373 "Handle" means to temporarily possess industrial hemp grown in compliance with state or federal law that
 1374 (i) has not been processed and (ii) was not grown by and will not be processed by the person temporarily
 1375 possessing it.

1376 "Handler" means any person who is registered pursuant to subsection A of § 3.2-4115 to handle industrial
 1377 hemp. "Handler" does not include a retail establishment that sells or offers for sale a hemp product.

1378 "Handler's storage site" means the location at which a handler stores or intends to store the industrial
 1379 hemp he handles.

1380 "Hemp product" means a product, including any raw materials from industrial hemp that are used for or
 1381 added to a food or beverage, that (i) contains industrial hemp and has completed all stages of processing
 1382 needed for the product and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol
 1383 concentration of no greater than 0.3 percent and (b) contains either no more than two milligrams of total
 1384 tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the
 1385 amount of total tetrahydrocannabinol per package the same as that term is defined in § 4.1-600.

1386 "Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

1387 "Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof, whether growing
 1388 or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

1389 "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed
 1390 to convert the extract into a hemp product.

1391 "Process" means to convert industrial hemp into a hemp product.

1392 "Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

1393 "Process site" means the location at which a processor processes or intends to process industrial hemp.

1394 "Production field" means the land or area on which a grower or a federally licensed hemp producer is
 1395 growing or intends to grow industrial hemp.

1396 "Regulated hemp product" means a hemp product intended for smoking or an edible hemp product.

1397 "Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its
 1398 salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is
 1399 possible within the specific chemical designation and any preparation, mixture, or substance containing, or
 1400 mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition,
 1401 "isomer" means the optical, position, and geometric isomers the same as that term is defined in § 4.1-600.

1402 "Topical hemp product" means a hemp product that (i) is intended to be rubbed, poured, sprinkled, or
 1403 sprayed on or otherwise applied to the human body or any part thereof and (ii) is not intended to be consumed
 1404 orally or by inhalation.

1405 "Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of
 1406 the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic
 1407 acid the same as that term is defined in § 4.1-600.

1408 **§ 3.2-4113. Production of industrial hemp lawful.**

1409 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his
 1410 agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful
 1411 purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11
 1412 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the
 1413 possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration
 1414 that does not exceed the total tetrahydrocannabinol concentration percentage established in federal
 1415 regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his agent or
 1416 processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,
 1417 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the possession,
 1418 handling, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or
 1419 proceeding brought for the enforcement of any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*,
 1420 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall

1421 not be necessary to negate any exception, excuse, proviso, or exemption contained in this article or the Drug
 1422 Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the
 1423 defendant.

1424 B. Nothing in this article shall be construed to authorize any person to violate any federal law or
 1425 regulation.

1426 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247,~~
 1427 ~~18.2-248, 18.2-248.01, 18.2-248.1,~~ or 18.2-250 for the involuntary growth of industrial hemp through the
 1428 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage
 1429 site, or process site.

1430 **§ 3.2-4116. Registration conditions.**

1431 A. A person who is not a federally licensed hemp producer shall obtain a registration pursuant to
 1432 subsection A of § 3.2-4115 prior to growing, handling, or processing any industrial hemp in the
 1433 Commonwealth.

1434 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1435 1. Maintain records that reflect compliance with this article;

1436 2. Retain all industrial hemp growing, handling, or processing records for at least three years;

1437 3. Allow his production field, handler's storage site, or process site to be inspected by and at the discretion
 1438 of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of
 1439 the locality in which the production field, or handler's storage site, or process site exists;

1440 4. Allow the Commissioner or his designee to monitor and test the grower's, handler's, or processor's
 1441 industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes
 1442 established pursuant to § 3.2-4114, at the cost of the grower, handler, or processor; and

1443 5. If required by the Commissioner, destroy, at the cost of the grower, handler, or processor and in a
 1444 manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the
 1445 handler handles, or the processor processes that has been tested and, following any re-sampling and retesting
 1446 as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of
 1447 tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the
 1448 processor produces.

1449 C. A processor shall not sell industrial hemp or a substance containing an industrial hemp extract, as
 1450 defined in § 3.2-5145.1, to a person if the processor knows or has reason to know that such person will use
 1451 the industrial hemp or substance containing an industrial hemp extract in a substance that (i) contains a total
 1452 tetrahydrocannabinol concentration that is greater than 0.3 percent or (ii) contains more than two milligrams
 1453 of total tetrahydrocannabinol per package ~~and does not contain an amount of cannabidiol that is at least 25~~
 1454 ~~times greater than the amount of total tetrahydrocannabinol per package.~~

1455 **§ 3.2-4126. Civil penalties.**

1456 A. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny
 1457 the application for a regulated hemp product retail facility registration or suspend or revoke the regulated
 1458 hemp product retail facility registration of any person that violates a provision of this article.

1459 B. Any person that (i) offers for sale or sells at retail a regulated hemp product without first obtaining a
 1460 registration to do so from the Commissioner in accordance with § 3.2-4122, (ii) continues to offer for sale or
 1461 sell at retail a regulated hemp product after revocation or suspension of such registration, (iii) offers for sale
 1462 or sells at retail a substance intended for human consumption, orally or by inhalation, that (a) contains a total
 1463 tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams
 1464 of total tetrahydrocannabinol per package ~~and does not contain an amount of cannabidiol that is at least 25~~
 1465 ~~times greater than the amount of total tetrahydrocannabinol per package,~~ (iv) offers for sale or sells at retail a
 1466 regulated hemp product in violation of § 3.2-4123, or (v) offers for sale or sells at retail a substance intended
 1467 for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial
 1468 hemp-derived cannabinoid without a regulated hemp product retail facility registration is, in addition to any
 1469 other penalties provided, subject to a civil penalty not to exceed \$10,000 for each day a violation occurs.
 1470 Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer
 1471 for remittance to the Department.

1472 **§ 3.2-5145.1. Definitions.**

1473 As used in this article, unless the context requires a different meaning:

1474 "Food" means any article that is intended for human consumption and introduction into commerce,
 1475 whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation
 1476 thereof. "Food" does not mean drug as defined in § 54.1-3401.

1477 "Industrial hemp" means a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is
 1478 no greater than that allowed by federal law.

1479 "Industrial hemp extract" means an extract (i) of industrial hemp, (ii) that is intended for human
 1480 consumption, and (iii) except as otherwise provided in subsection M of § 54.1-3442.6, when offered for retail
 1481 sale, that (a) contains a total tetrahydrocannabinol concentration that is no greater than 0.3 percent and (b)
 1482 contains ~~either~~ no more than two milligrams of total tetrahydrocannabinol per package ~~or an amount of~~

1483 cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package.
1484 "Industrial hemp extract" is not a hemp seed-derived ingredient that is approved by the U.S. Food and Drug
1485 Administration or is the subject of a generally recognized as safe notice for which the U.S. Food and Drug
1486 Administration had no questions.

1487 "Tetrahydrocannabinol" means the same as that term is defined in § ~~3.2-4112~~ 4.1-600.

1488 "Total tetrahydrocannabinol" means the same as that term is defined in § ~~3.2-4112~~ 4.1-600.

1489 **§ 3.2-5145.2:1. Manufacturers of industrial hemp extract; penalties.**

1490 A. Any person who manufactures, sells, or offers for sale an industrial hemp extract or food containing an
1491 industrial hemp extract shall be subject to the requirements of this chapter and regulations adopted pursuant
1492 to this chapter.

1493 B. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing
1494 an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to
1495 § 3.2-5100, unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to
1496 manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract
1497 after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner
1498 that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains
1499 an industrial hemp-derived cannabinoid; (iv) sells or offers for sale at retail a food that (a) contains a total
1500 tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams
1501 of total tetrahydrocannabinol per package ~~and does not contain an amount of cannabidiol that is at least 25~~
1502 ~~times greater than the amount of total tetrahydrocannabinol per package;~~ (v) manufactures, offers for sale, or
1503 sells in violation of this chapter or a regulation adopted pursuant to this chapter a substance intended to be
1504 consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (vi)
1505 otherwise violates any provision of this chapter or a regulation adopted pursuant to this chapter, in addition to
1506 any other penalties provided, is subject to a civil penalty not to exceed \$10,000 for each day a violation
1507 occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State
1508 Treasurer for remittance to the Department.

1509 C. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing
1510 an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to
1511 § 3.2-5100, unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to
1512 manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract
1513 after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner
1514 that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains
1515 an industrial hemp-derived cannabinoid; (iv) manufactures, offers for sale, or sells in violation of this chapter
1516 or a regulation adopted pursuant to this chapter a substance intended to be consumed orally that is advertised
1517 or labeled as containing an industrial hemp-derived cannabinoid; or (v) otherwise violates any provision of
1518 this chapter or a regulation adopted pursuant to this chapter, in addition to any other penalties provided, is
1519 guilty of a Class 1 misdemeanor. Each day in which a violation occurs shall constitute a separate offense.

1520 D. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny,
1521 suspend, or revoke a permit issued pursuant to § 3.2-5100 if the permitted entity is found to have violated
1522 subdivision A 69, 70, 71, 72, 73, or 74 of § 59.1-200 by a court of competent jurisdiction.

1523 E. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug
1524 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to
1525 Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

1526 **§ 3.2-5145.4. Industrial hemp extract requirements.**

1527 A. An industrial hemp extract shall (i) be produced from industrial hemp grown in compliance with
1528 applicable law and (ii) when offered for retail sale, (a) contain a total tetrahydrocannabinol concentration of
1529 no greater than 0.3 percent and (b) contain ~~either~~ no more than two milligrams of total tetrahydrocannabinol
1530 per package ~~or an amount of cannabidiol that is no less than 25 times greater than the amount of total~~
1531 ~~tetrahydrocannabinol per package.~~

1532 B. In addition to the requirements of this chapter, an industrial hemp extract or food containing an
1533 industrial hemp extract shall comply with regulations adopted by the Board pursuant to § 3.2-5145.5.

1534 **§ 4.1-103. General powers of Board.**

1535 The Board shall have the power to:

- 1536 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
- 1537 2. Adopt, use, and alter at will a common seal;
- 1538 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of
1539 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose
1540 of providing for the payment of the expenses of the Authority;
- 1541 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its
1542 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
1543 agreements with any person or federal agency;
- 1544 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,

1545 investment bankers, superintendents, managers, and such other employees and special agents as may be
1546 necessary and fix their compensation to be payable from funds made available to the Authority. Legal
1547 services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500
1548 et seq.) of Title 2.2;

1549 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person
1550 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
1551 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
1552 from any other source aid or contributions of either money, property, or other things of value, to be held,
1553 used, and applied only for the purposes for which such grants and contributions may be made. All federal
1554 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and
1555 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys
1556 accepted under this section shall be expended by the Authority upon such terms and conditions as are
1557 prescribed by the Commonwealth;

1558 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall
1559 be transacted and the manner in which the powers of the Authority shall be exercised and its duties
1560 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any
1561 officer or employee of the Authority. The Board shall remain responsible for the performance of any such
1562 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by
1563 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall
1564 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the
1565 Board of the responsibility to ensure faithful performance of the duties and tasks;

1566 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
1567 purposes or necessary or convenient to exercise its powers;

1568 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
1569 construction, based upon competitive principles;

1570 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
1571 2.2;

1572 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and
1573 to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

1574 12. Buy and sell any mixers;

1575 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
1576 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
1577 (clothing);

1578 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

1579 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
1580 operated and the location of such stores;

1581 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
1582 beverages to and from such warehouses;

1583 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
1584 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
1585 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
1586 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
1587 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
1588 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
1589 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
1590 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
1591 terms and conditions as may be determined by the Board; and occupy and improve any land or building
1592 required for the purposes of this subtitle;

1593 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
1594 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and
1595 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
1596 beverages;

1597 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
1598 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;
1599 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
1600 alcohol;

1601 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds
1602 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of
1603 experts and professionals;

1604 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
1605 of records, memoranda, papers and other documents before the Board or any agent of the Board; and
1606 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the

1607 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
 1608 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may
 1609 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement
 1610 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such
 1611 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A
 1612 consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial
 1613 review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by
 1614 the Board in future disciplinary proceedings;

1615 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to
 1616 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
 1617 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
 1618 interest in obtaining the information requested if such information is not to be used for commercial or trade
 1619 purposes;

1620 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
 1621 § 4.1-111;

1622 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale
 1623 of alcoholic beverages;

1624 25. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

1625 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

1626 27. Establish minimum food sale requirements for all retail licensees;

1627 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive
 1628 Officer as the Board deems appropriate;

1629 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
 1630 activities undertaken to enforce the provisions of this subtitle;

1631 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
 1632 applications for such permits;

1633 31. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of
 1634 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state
 1635 license fee; ~~and~~

1636 32. *Establish, advertise, and administer a tip line, which may be accessed by phone and by internet, for*
 1637 *members of the public to anonymously report concerns about, or suspected instances of, unlicensed*
 1638 *cultivation, processing, sale, or distribution of marijuana and marijuana products in violation of the*
 1639 *Cannabis Control Act (§ 4.1-600 et seq.), review and investigate reports of such unlicensed activity submitted*
 1640 *through the tip line, and take appropriate enforcement action or refer such matters to the appropriate*
 1641 *enforcement agency or authority;*

1642 33. *Enforce the provisions of the Cannabis Control Act (§ 4.1-600 et seq.) related to the unlicensed*
 1643 *cultivation, processing, sale, or distribution of marijuana and marijuana products only with respect to*
 1644 *reports received through the tip line established pursuant to subdivision 32;*

1645 34. *Conduct outreach to all licensees and businesses selling liquid nicotine or nicotine vapor products to*
 1646 *inform and educate such licensees and businesses on the Cannabis Control Act (§ 4.1-600 et seq.) and laws*
 1647 *and regulations related to the illegal cultivation, processing, sale, and distribution of marijuana and*
 1648 *marijuana products; and*

1649 35. Do all acts necessary or advisable to carry out the purposes of this subtitle.

1650 **§ 4.1-105. Police power of members, agents and employees of Board.**

1651 Members of the Board are vested, and such agents and employees of the Board designated by it shall be
 1652 vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the
 1653 Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207;
 1654 (iii) § 18.2-246.14; (iv) § 18.2-371.2; (v) § 58.1-1015; (vi) § 58.1-1017; ~~and~~ (vii) § 58.1-1037; *and (viii) the*
 1655 *Cannabis Control Act (§ 4.1-600 et seq.) related to the unlicensed cultivation, processing, sale, or*
 1656 *distribution of marijuana and marijuana products only with respect to reports received through the tip line*
 1657 *established pursuant to subdivision 32 of § 4.1-103.*

1658 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1659 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the
 1660 Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for*
 1661 *violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by*
 1662 *him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the*
 1663 *requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the*
 1664 *admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On*
 1665 *motion of the accused or any party in interest, the court may require the forensic scientist making the analysis*
 1666 *to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable*
 1667 *time prior to the day on which the case is set for trial.*

1668 **§ 4.1-600. Definitions.**

1669 As used in this subtitle, unless the context requires a different meaning:

1670 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is
 1671 calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or marijuana seeds,
 1672 including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor
 1673 display, publication, or radio or television broadcast.

1674 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

1675 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

1676 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

1677 "*Canopy*" means the space used by a licensee to produce flowering marijuana plants, including areas
 1678 between plants, pathways, walkways, and empty space between rows that allow for airflow, light, growth,
 1679 access for watering, trimming, and other activities associated with marijuana cultivation. "*Canopy*" does not
 1680 include space used for mother plants, clones, immature or nonflowering plants, processing, drying, curing,
 1681 trimming, storage, offices, hallways, work areas, or other administrative and nonproduction uses. If
 1682 flowering marijuana plants are cultivated using a shelving or other layered system, the surface area of each
 1683 level shall be included for purposes of calculating canopy.

1684 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to
 1685 be significantly difficult for a typical child ~~under~~ younger than five years of age to open and not to be
 1686 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a
 1687 single use or that contains multiple servings, resealable.

1688 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,
 1689 trimming, packaging, or other similar ~~processing~~ manufacturing of marijuana for use or sale. "Cultivation" or
 1690 "cultivate" does not include ~~manufacturing~~ processing or testing.

1691 "*Edible hemp product*" means any hemp product that is or includes an industrial hemp extract, as defined
 1692 in § 3.2-5145.1, and that is intended to be consumed orally.

1693 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
 1694 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

1695 "*Hemp product*" means a product, including any raw materials from industrial hemp that are used for or
 1696 added to a food or beverage, that (i) contains industrial hemp and has completed all stages of processing
 1697 needed for the product and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol
 1698 concentration of no greater than 0.3 percent and (b) contains no more than two milligrams of total
 1699 tetrahydrocannabinol per package.

1700 "*Hemp product intended for smoking*" means any hemp product intended to be consumed by inhalation.

1701 "*Historically economically disadvantaged community*" means either (i) a jurisdiction identified by the
 1702 Board utilizing census tract data made available by the United States Census Bureau in which offenses for
 1703 marijuana possession were committed at a rate in excess of 150 percent of the statewide average for
 1704 marijuana possession offenses during the 10-year period of 2009 to 2019 or (ii) a historically underutilized
 1705 business zone as defined in 15 U.S.C. § 657a.

1706 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider
 1707 than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

1708 "*Impact licensee*" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-606.

1709 "*Industrial hemp*" means the same as that term is defined in § 3.2-4112.

1710 "*Industrial hemp extract*" means the same as that term is defined in § 3.2-5145.1.

1711 "*Inhalable marijuana product*" means a marijuana product that is intended to be inhaled, including
 1712 marijuana intended to be inhaled or marijuana concentrate intended to be inhaled.

1713 "Licensed" means the holding of a valid license or permit granted by the Authority.

1714 "Licensee" means any person to whom a license or permit has been granted by the Authority.

1715 "~~Manufacturing" or "manufacture"~~ means the production of marijuana products or the blending, infusing,
 1716 compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or
 1717 preparation by means of chemical synthesis. "~~Manufacturing" or "manufacture"~~ does not include cultivation
 1718 or testing.

1719 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin;
 1720 and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,
 1721 or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of
 1722 such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such
 1723 stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp; as
 1724 defined in § 3.2-4112; that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his
 1725 agent; (iii) industrial hemp; as defined in § 3.2-4112; that is possessed by a person who holds a hemp
 1726 producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp
 1727 product; as defined in § 3.2-4112; (v) an industrial hemp extract; as defined in § 3.2-5145.1; or (vi) any
 1728 substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether
 1729 that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act
 1730 (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

1731 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active
 1732 cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant
 1733 is a concentrate for purposes of this subtitle.

1734 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and
 1735 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana
 1736 cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and
 1737 marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail
 1738 marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer
 1739 possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana
 1740 plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use
 1741 § 4.1-800.

1742 "*Marijuana delivery operator*" means an entity licensed under § 4.1-805.

1743 "Marijuana establishment" means a marijuana cultivation facility, a *marijuana microbusiness*, *marijuana*
 1744 *delivery operator*, marijuana testing facility, a *marijuana manufacturing processing facility*, a *marijuana*
 1745 *wholesaler transporter*, or a retail marijuana store, or *pharmaceutical processor or cannabis dispensing*
 1746 *facility authorized to exercise dual-use privileges pursuant to § 4.1-1602.1*.

1747 "Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and
 1748 package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana
 1749 from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession
 1750 of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or
 1751 other marijuana manufacturing facilities.

1752 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either
 1753 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,
 1754 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,
 1755 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the
 1756 human body marijuana.

1757 "*Marijuana processing facility*" means a facility licensed under § 4.1-801.

1758 "Marijuana products" means (i) products that are composed of marijuana and other ingredients and are
 1759 intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

1760 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test
 1761 marijuana, marijuana products, and other substances § 4.1-806.

1762 "Marijuana wholesaler transporter" means a facility licensed under this subtitle to purchase or take
 1763 possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds
 1764 from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and
 1765 to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants,
 1766 and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana
 1767 store, or another marijuana wholesaler § 4.1-804.

1768 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed
 1769 marijuana establishment.

1770 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a
 1771 licensed marijuana establishment.

1772 "*Microbusiness*" means a facility licensed under § 4.1-803.

1773 "*Outdoor cultivation*" means cultivation in an area exposed to natural sunlight and open to environmental
 1774 conditions, including variable temperature, precipitation, and wind.

1775 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
 1776 designated in the application for a license as the place at which the cultivation, *manufacture processing*, sale,
 1777 or testing of retail marijuana or retail marijuana products shall be performed, ~~except that portion of any such~~
 1778 ~~building or other improvement actually and exclusively used as a private residence.~~

1779 "*Principal*" means (i) any individual who solely or together with his immediate family members (a) owns
 1780 or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee
 1781 or permittee or (b) has the power to vote or cause the vote of five percent or more of the voting securities or
 1782 other ownership interests of such entity and (ii) any person who manages marijuana establishment
 1783 operations on behalf of a licensee or permittee.

1784 "*Processing*" or "*process*" means the production of marijuana products or the blending, infusing,
 1785 compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or
 1786 preparation by means of chemical synthesis. "*Processing*" or "*process*" does not include cultivation or
 1787 testing.

1788 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,
 1789 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,
 1790 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

1791 "*Regulated hemp product*" means a hemp product intended for smoking or an edible hemp product.

1792 "Residence" means any building or part of a building or structure where a person resides, but does not

1793 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a
1794 hotel or club other than a private guest room thereof.

1795 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana
1796 establishment.

1797 "Retail marijuana products" means marijuana products that are manufactured and sold by a licensed
1798 marijuana establishment.

1799 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of
1800 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana
1801 cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana,
1802 retail marijuana products, immature marijuana plants, or marijuana seeds to consumers § 4.1-802.

1803 "Security" means the same as that term is defined in § 13.1-501. If the Board finds that any obligation,
1804 stock, or other equity interest creates control of or voice in the management operations of an entity in the
1805 manner of a security, then such interest shall be considered a security.

1806 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;
1807 peddling, exchanging, or bartering; or delivering otherwise other than gratuitously, by any means, retail
1808 marijuana or retail marijuana products.

1809 "Secure agricultural greenhouse" means an enclosed structure that has transparent walls and roofing and
1810 is used for controlled-environment agriculture.

1811 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has
1812 designated as a law-enforcement officer pursuant to this subtitle.

1813 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances
1814 for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing
1815 processing.

1816 "Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112 any naturally occurring or
1817 synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of
1818 such salts, isomers, and salts of isomers is possible within the specific chemical designation and any
1819 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of
1820 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and
1821 geometric isomers.

1822 "Topical hemp product" means a hemp product that (i) is intended to be rubbed, poured, sprinkled, or
1823 sprayed on or otherwise applied to the human body or any part thereof and (ii) is not intended to be
1824 consumed orally or by inhalation.

1825 "Topical marijuana product" means a marijuana product that is intended to be applied topically to the
1826 skin.

1827 "Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112 sum, after the
1828 application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the
1829 percentage by weight of tetrahydrocannabinolic acid.

1830 **§ 4.1-601. Virginia Cannabis Control Authority created; statement of purpose.**

1831 A. The General Assembly has determined that there exists in the Commonwealth a need to control the
1832 possession, sale, transportation, distribution, and delivery of retail marijuana and retail, marijuana products,
1833 and regulated hemp products in the Commonwealth. Further, the General Assembly finds that laws
1834 prohibiting the use and sale of marijuana have been ineffective and have had devastating collateral
1835 consequences for individuals and communities across the Commonwealth, disproportionately impacting
1836 African Americans. The purpose of this subtitle is to create an approach to marijuana regulation that is
1837 rooted in principles of restorative justice, economic equity, and public health in order to generate significant
1838 revenue dedicated to community reinvestment, create small and local businesses, strengthen the
1839 Commonwealth's vital agriculture sector, end the racially disparate impacts of prohibition, and protect the
1840 health and safety of all citizens of the Commonwealth. This subtitle is further intended to establish a
1841 competitive, sustainable, and decentralized market structure built for long-term success, prioritizing the
1842 creation of durable, independent businesses over the maximization of short-term tax revenue.

1843 B. Further, the General Assembly determines that the creation of an authority for this purpose is in the
1844 public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and
1845 prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an
1846 independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial
1847 branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's
1848 exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential
1849 governmental function and a matter of public necessity for which public moneys may be spent.

1850 B. C. The Board of Directors of the Authority is vested with control of the possession, sale, transportation,
1851 distribution, and delivery of retail marijuana and retail, marijuana products, and regulated hemp products in
1852 the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which
1853 retail marijuana and retail, marijuana products, and regulated hemp products are possessed, sold, transported,
1854 distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and

1855 to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The
 1856 exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the
 1857 Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets
 1858 or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual,
 1859 except that reasonable compensation may be paid for services rendered to or for the Authority affecting one
 1860 or more of its purposes, and benefits may be conferred that are in conformity with said purposes, and no
 1861 private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of
 1862 the Authority.

1863 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**
 1864 **compensation and expenses; duties.**

1865 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory
 1866 council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues,
 1867 trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding
 1868 health warnings; ~~retail~~; marijuana ~~and retail~~, marijuana products, *and regulated hemp products* safety and
 1869 product composition; and public health awareness, programming, and related resource needs.

1870 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14
 1871 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council
 1872 shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of
 1873 the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by
 1874 the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for
 1875 Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy
 1876 of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom
 1877 shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the
 1878 House of Delegates, one of whom shall be a representative from a community services board, one of whom
 1879 shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one
 1880 of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of
 1881 whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with
 1882 experience in veterans health care, and one of whom shall be a person with a social or health equity
 1883 background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one
 1884 of whom shall be a representative of a local health district, one of whom shall be a person who is part of the
 1885 cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of
 1886 whom shall be a registered medical cannabis patient.

1887 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of
 1888 Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services,
 1889 the Director of the Department of Health Professions, the Director of the Department of Forensic Science,
 1890 and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex
 1891 officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with
 1892 their terms of office.

1893 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four
 1894 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.
 1895 Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

1896 ~~The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.~~
 1897 The Advisory Council shall select a ~~vice-chairman~~ *chair and vice-chair* from among its membership. A
 1898 majority of the members shall constitute a quorum *unless the Advisory Council adopts a policy by the*
 1899 *affirmative vote of a majority of the Advisory Council members that allows for a lesser number of members to*
 1900 *constitute a quorum, which shall be no less than nine members.* The Advisory Council shall meet at least two
 1901 times each year and shall meet at the call of the ~~chairman~~ *or chair*, whenever the majority of the members so
 1902 request, *or upon the Board's submission of regulations to the Advisory Council for approval.*

1903 The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,
 1904 and state agency representatives.

1905 C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for
 1906 all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813
 1907 and 2.2-2825.

1908 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to
 1909 fulfill its purpose as described in subsection A:

1910 1. To review multi-agency efforts to support collaboration and a unified approach on public health
 1911 responses related to marijuana and marijuana legalization in the Commonwealth and to develop
 1912 recommendations as necessary.

1913 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the
 1914 Commonwealth and the science and medical information relevant to the potential health risks associated with
 1915 such drug use, and make appropriate recommendations to the Department of Health and the Board.

1916 3. ~~Submit~~ *To review and approve Board regulations related to public health pursuant to subsection F of*

1917 § 4.1-606. *The Advisory Council shall approve or deny such regulations within 30 calendar days of the*
 1918 *Board's submission of the regulations to the Advisory Council. If the Advisory Council fails to approve or*
 1919 *deny a regulation within 30 calendar days, the Advisory Council shall request a 30-day extension to review*
 1920 *the regulations from the Board or provide a written explanation to the Board on why the Advisory Council*
 1921 *failed to approve or deny the regulation within 30 calendar days. If the Advisory Council fails to approve or*
 1922 *deny a regulation within 30 calendar days and does not request an extension, the Board may adopt such*
 1923 *regulation without approval by the Advisory Council.*

1924 4. To submit an annual report to the Governor and the General Assembly for publication as a report
 1925 document as provided in the procedures of the Division of Legislative Automated Systems for the processing
 1926 of legislative documents and reports. The ~~chairman~~ *chair* shall submit to the Governor and the General
 1927 Assembly an annual executive summary of the interim activity and work of the Advisory Council no later
 1928 than the first day of each regular session of the General Assembly. The executive summary shall be submitted
 1929 as a report document as provided in the procedures of the Division of Legislative Automated Systems for the
 1930 processing of legislative documents and reports and shall be posted on the General Assembly's website.

1931 **§ 4.1-604. Powers and duties of the Board.**

1932 The Board shall have the following powers and duties:

1933 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
 1934 § 4.1-606;

1935 2. Control the possession, sale, transportation, and delivery of marijuana ~~and~~, marijuana products, *and*
 1936 *regulated hemp products*;

1937 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license ~~or~~, permit, *or registration* issued
 1938 or authorized pursuant to this subtitle;

1939 4. Determine the nature, form, and capacity of all containers used for holding marijuana products *or*
 1940 *regulated hemp products* to be kept or sold and prescribe the form and content of all labels and seals to be
 1941 placed thereon;

1942 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

1943 6. Establish standards and implement an online course for employees of retail marijuana stores *and*
 1944 *microbusinesses* that trains employees on how to educate consumers on the potential risks of marijuana use;

1945 7. Establish a plan to develop and disseminate to retail marijuana store *and microbusinesses* licensees a
 1946 pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and
 1947 made available to consumers;

1948 8. Establish a position for a Cannabis ~~Social Equity~~ *Impact Business* Liaison who shall lead the Cannabis
 1949 *Impact Business Equity and Diversity* Support Team and liaise with the Director of Diversity, Equity, and
 1950 Inclusion on matters related to ~~diversity, equity, and inclusion standards~~ *impact licensee participation* in the
 1951 marijuana industry;

1952 9. Establish a Cannabis *Impact Business Equity and Diversity* Support Team, which shall (i) develop
 1953 requirements for the creation and submission of diversity, equity, and inclusion *plans*; (ii) *define impact*
 1954 *licensee business accelerator plans by persons who wish to possess a license in more than one license*
 1955 *category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate*
 1956 *in social equity apprenticeship plan, and in coordination with public institutions of higher education as*
 1957 *appropriate, which shall include guidelines for the provision of technical assistance to impact licensees by*
 1958 *pharmaceutical processors provided that such assistance does not result in undue operational control and*
 1959 *preserves termination rights of the impact licensee*; (iii) *develop an approval process and requirements for*
 1960 *implementation of such diversity, equity, and inclusion and impact licensee business accelerator plans*; ~~(ii)~~
 1961 *(iv) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and*
 1962 *minority-owned businesses and veteran-owned impact businesses interested in participating in the marijuana*
 1963 *industry and recommending strategies to effectively mitigate such potential barriers*; ~~(iii)~~ (v) provide
 1964 assistance with business planning for potential marijuana establishment licensees; ~~(iv)~~ (vi) spread awareness
 1965 of business opportunities related to the marijuana marketplace in ~~areas disproportionately impacted by~~
 1966 ~~marijuana prohibition and enforcement~~ *historically economically disadvantaged communities*; ~~(v)~~ (vi)
 1967 provide technical assistance in navigating the administrative process to potential marijuana establishment
 1968 licensees; and ~~(vi)~~ (vii) conduct other outreach initiatives in ~~areas disproportionately impacted by marijuana~~
 1969 ~~prohibition and enforcement~~ *historically economically disadvantaged communities* as necessary;

1970 10. Establish a position for an individual with professional experience in a health related field who shall
 1971 staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office
 1972 of the Secretary of Health and Human Resources and relevant health and human services agencies and
 1973 organizations, and perform other duties as needed;

1974 11. Establish and implement a plan, in coordination with the Cannabis ~~Social Equity~~ *Impact Business*
 1975 *Liaison and the Director of Diversity, Equity, and Inclusion*, to promote and encourage participation in the
 1976 marijuana industry by people from *historically economically disadvantaged communities that have been*
 1977 *disproportionately impacted by marijuana prohibition and enforcement* and to positively impact those
 1978 communities;

- 1979 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
 1980 13. Adopt, use, and alter at will a common seal;
 1981 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale
 1982 of products of, or services rendered by the Authority at rates to be determined by the Authority for the
 1983 purpose of providing for the payment of the expenses of the Authority;
 1984 15. Make and enter into all contracts and agreements necessary or incidental to the performance of its
 1985 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
 1986 agreements with any person or federal agency;
 1987 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
 1988 investment bankers, superintendents, managers, and such other employees and special agents as may be
 1989 necessary and fix their compensation to be payable from funds made available to the Authority. ~~Legal~~ *The*
 1990 *Board may employ or retain legal counsel of its choice to advise or represent the Authority in hearings,*
 1991 *controversies, or other matters involving the interests of the Authority; however, upon request by the Board,*
 1992 *the Attorney General shall provide legal services for the Authority* ~~shall be provided by the Attorney General~~
 1993 in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
 1994 17. Receive and accept from any federal or private agency, foundation, corporation, association, or person
 1995 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
 1996 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
 1997 from any other source aid or contributions of either money, property, or other things of value, to be held,
 1998 used, and applied only for the purposes for which such grants and contributions may be made. All federal
 1999 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and
 2000 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys
 2001 accepted under this section shall be expended by the Authority upon such terms and conditions as are
 2002 prescribed by the Commonwealth;
 2003 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business
 2004 shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties
 2005 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any
 2006 officer or employee of the Authority. The Board shall remain responsible for the performance of any such
 2007 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by
 2008 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall
 2009 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the
 2010 Board of the responsibility to ensure faithful performance of the duties and tasks;
 2011 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
 2012 purposes or necessary or convenient to exercise its powers;
 2013 20. Develop policies and procedures generally applicable to the procurement of goods, services, and
 2014 construction, based upon competitive principles;
 2015 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
 2016 2.2;
 2017 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
 2018 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
 2019 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
 2020 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
 2021 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
 2022 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
 2023 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
 2024 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
 2025 terms and conditions as may be determined by the Board; and occupy and improve any land or building
 2026 required for the purposes of this subtitle;
 2027 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
 2028 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and
 2029 processing plants;
 2030 24. Appoint every agent and employee required for its operations, require any or all of them to give bonds
 2031 payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of
 2032 experts and professionals;
 2033 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production
 2034 of records, memoranda, papers, and other documents before the Board or any agent of the Board, and
 2035 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the
 2036 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
 2037 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may
 2038 enter into consent agreements and may request and accept from any applicant, licensee, or permittee a
 2039 consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii)
 2040 disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding

2041 whether the terms of the consent agreement are confidential and (b) may include an admission or a finding of
2042 a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject
2043 to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be
2044 considered by the Board in future disciplinary proceedings;

2045 26. Make a reasonable charge for preparing and furnishing statistical information and compilations to
2046 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2047 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
2048 interest in obtaining the information requested if such information is not to be used for commercial or trade
2049 purposes;

2050 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for
2051 violations of this subtitle and Board regulations;

2052 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive
2053 Officer as the Board deems appropriate;

2054 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
2055 activities undertaken to enforce the provisions of this subtitle;

2056 30. Establish and collect fees for all *licenses and permits* set forth in this subtitle, including fees
2057 associated with applications for such *licenses and permits*;

2058 31. Develop and make available on its website guidance documents regarding compliance and safe
2059 practices for persons who cultivate marijuana at home for personal use, which shall include information
2060 regarding cultivation practices that promote personal and public safety, including child protection, and
2061 discourage practices that create a nuisance;

2062 32. Develop and make available on its website a resource that provides information regarding (i)
2063 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana
2064 consumption, including inability to operate a motor vehicle and other types of transportation and equipment;
2065 and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment
2066 opportunities. The Board shall require that the web address for such resource be included on the label of all
2067 ~~retail~~ marijuana and ~~retail~~ marijuana product as provided in § ~~4.1-1402~~ 4.1-1405; ~~and~~

2068 33. *Access during business hours any facility governed by this subtitle and any business that offers for*
2069 *sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised*
2070 *or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing samples to*
2071 *identify potential violations of this subtitle;*

2072 34. *Conduct training and provide educational resources to the public on the application process for*
2073 *licenses;*

2074 35. *Develop and provide consumer education that (i) highlights the ways purchasing marijuana and*
2075 *marijuana products from or cultivated and processed by licensees supports farmers, small business, and*
2076 *community reinvestment; (ii) educates consumers on how to recognize licensed retail marijuana stores and*
2077 *microbusinesses; and (iii) informs consumers about responsible marijuana consumption and health risks and*
2078 *other dangers associated with marijuana consumption.*

2079 36. *Issue a quarterly report that contains information regarding (i) license fees waived or reduced*
2080 *pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of*
2081 *§ 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under*
2082 *the influence, underage consumption and youth awareness, and health risks; (iv) community engagement*
2083 *initiatives; (v) sales and tax revenue; (vi) programs funded by marijuana tax revenue; (vii) efforts made*
2084 *pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken;*

2085 37. *Maintain a public registry available online of information for all licensees that includes a searchable*
2086 *directory of licenses by license type and impact licensee designation;*

2087 38. *Develop policies and procedures generally applicable to the audit of ownership and financial*
2088 *relationships across all licenses on a schedule established by the Board. The audits shall be conducted by an*
2089 *independent certified public accountant and the costs of such audits shall be borne by the licensee;*

2090 39. *Beginning on July 1, 2028, and each July 1 thereafter, issue an annual report on the performance and*
2091 *health of the retail marijuana market in the Commonwealth, including information related to: (i) sales and*
2092 *tax revenue, including information on sales and tax revenue broken down by marijuana and marijuana*
2093 *product category; (ii) the distribution of tax revenue; (iii) the total number of licenses issued and the number*
2094 *of licensees actively operating in the Commonwealth; (iv) ownership diversity; (v) the number of jobs created*
2095 *in the marijuana industry, including information on the number of people employed by specific license type;*
2096 *(vi) average wholesale and retail prices of different types of marijuana and marijuana products; (vii) licenses*
2097 *issued to or renewed for persons identified in subdivision B 13 of § 4.1-606, amounts distributed to such*
2098 *impact licensees through the Cannabis Equity Business Loan Fund, and performance metrics for such*
2099 *licensees; (viii) an anonymized summary of the compliance findings from any audit of ownership and*
2100 *financial relationships across all licenses conducted pursuant to the policies and procedures of subdivision*
2101 *38; (ix) whether licensees with substantial market share of any category of licensure have an impact on the*
2102 *goals of (a) inclusion of microbusiness and impact licensees in the market, (b) maintaining adequate supplies*

2103 of marijuana, and (c) prevention of dominant marketplace participation in the marijuana industry; (x) the
 2104 potential expansion or contraction of the marijuana market in the Commonwealth, which may include
 2105 information related to any increase in retail marijuana sales and activity in the illicit marijuana market; (xi)
 2106 a comparison of estimated sales in the illicit marijuana market to sales in the retail marijuana market; (xii)
 2107 information on the viability of marijuana establishments in the Commonwealth; (xiii) the feasibility of
 2108 requiring pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board
 2109 pursuant to the provisions of Chapter 16 (§ 4.1-1600 et seq.) to offer for sale a certain amount or percentage
 2110 of marijuana and marijuana products cultivated or processed by microbusinesses and impact licensees,
 2111 including a proposed timeline for when such requirement may go into effect; and (xiv) any recommendations,
 2112 including recommendations for statutory or regulatory changes, to strengthen the Commonwealth's retail
 2113 marijuana market;

2114 40. Investigate the ownership and control interests of all licensees, including a review of the licensee's or
 2115 applicant's management and brand-licensing agreements to ensure compliance with § 4.1-807;

2116 41. Coordinate with the Department of Criminal Justice Services to ensure the exchange of any
 2117 information necessary to comply with the reporting requirements of the Community Policing Reporting
 2118 Database established pursuant to § 52-30.3;

2119 42. Advise and provide training to the Virginia Alcoholic Beverage Control Authority to support its duties
 2120 to enforce the Cannabis Control Act (§ 4.1-600 et seq.) and regulations related to the illegal cultivation,
 2121 processing, sale, and distribution of marijuana and marijuana products with respect to reports received
 2122 through the tip line pursuant to subdivision 32 of § 4.1-103 and to coordinate with the Virginia Alcoholic
 2123 Beverage Control Authority, as needed, on any such enforcement activities authorized pursuant to
 2124 subdivision 33 of § 4.1-103; and

2125 43. Do all acts necessary or advisable to carry out the purposes of this subtitle.

2126 **§ 4.1-606. Regulations of the Board.**

2127 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general
 2128 laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent
 2129 the illegal cultivation, ~~manufacture~~ processing, transportation, distribution, sale, and testing of marijuana
 2130 and marijuana products, and regulated hemp products. The Board may amend or repeal such regulations.
 2131 ~~Such~~ Except as otherwise provided by law, such regulations shall be promulgated, amended, or repealed in
 2132 accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

2133 B. The Board shall promulgate regulations that:

2134 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including
 2135 security requirements to include lighting, physical security, and alarm requirements, provided that such
 2136 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2137 2. Establish requirements for (i) securely transporting marijuana between marijuana establishments and
 2138 (ii) securely delivering marijuana or marijuana products from retail marijuana stores or microbusinesses
 2139 only in person to consumers, which shall include requirements for age verification, delivery radius, and
 2140 recordkeeping;

2141 3. Establish sanitary standards for ~~retail~~ marijuana product and regulated hemp product preparation;

2142 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products, and regulated hemp
 2143 products pursuant to Chapter 14 (§ 4.1-1400 et seq.);

2144 5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a
 2145 way that, when possible, prevents disparate impacts on historically economically disadvantaged communities;

2146 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and ~~retail~~
 2147 marijuana products to be sold or offered for sale by a licensee to a consumer and on regulated hemp products
 2148 to be sold or offered for sale by a person in accordance with the provisions of this subtitle;

2149 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not exceed
 2150 (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an equivalent amount
 2151 for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible marijuana products and where
 2152 practicable an equivalent amount for other marijuana products. Such regulations may include other product
 2153 and dispensing limitations on tetrahydrocannabinol;

2154 8. Establish requirements for the form, content, and retention of all records and accounts by all licensees
 2155 and by any person selling a regulated hemp product;

2156 9. Provide alternative methods for licensees to maintain and store business records that are subject to
 2157 Board inspection, including methods for Board-approved electronic and offsite storage;

2158 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores
 2159 in the community and (ii) metrics that have similarly shown an association with negative community-level
 2160 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the
 2161 Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

2162 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer
 2163 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the
 2164 address on record with the Board by certified mail, return receipt requested, and by regular mail;

2165 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to
 2166 subsection C of § ~~4.1-1002~~ 4.1-1003;

2167 13. Establish ~~criteria~~ *a process* by which to ~~evaluate social equity~~ *identify impact* license applicants,
 2168 which shall be an applicant ~~who has lived or been domiciled for at least 12 months in the Commonwealth and~~
 2169 ~~is either (i) an applicant with that has at least 66 51 percent ownership and direct control by a person or~~
 2170 ~~persons who (i) have resided (a) between the years 1999 and 2025 in a jurisdiction that, after utilizing census~~
 2171 ~~tract data made available by the United States Census Bureau, is determined to have been disproportionately~~
 2172 ~~policed for marijuana crimes or (b) for at least three of the past five years in a historically economically~~
 2173 ~~disadvantaged community and (ii) meet one or more of the following six criteria: (1) have been convicted of~~
 2174 ~~or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection~~
 2175 ~~A of § 18.2-265.3 as it relates to marijuana or any substantially similar offense under the laws of another~~
 2176 ~~jurisdiction; (ii) an applicant with at least 66 percent ownership by a person or persons who is (2) are the~~
 2177 ~~parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any~~
 2178 ~~misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to~~
 2179 ~~marijuana or any substantially similar offense under the laws of another jurisdiction; (iii) an applicant with at~~
 2180 ~~least 66 percent ownership by a person or persons who have resided for at least three of the past five years in~~
 2181 ~~a jurisdiction that is determined by the Board after utilizing census tract data made available by the United~~
 2182 ~~States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at~~
 2183 ~~least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a~~
 2184 ~~jurisdiction determined by the Board after utilizing census tract data made available by the United States~~
 2185 ~~Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a~~
 2186 ~~person or persons who graduated from a historically black college or university located in the Commonwealth~~
 2187 ~~(3) have attended for at least five years a public elementary or secondary school located in a historically~~
 2188 ~~economically disadvantaged community; (4) have received a Federal Pell Grant or attended for at least two~~
 2189 ~~years a college or university at which at least 30 percent of the students, on average, are eligible for a~~
 2190 ~~Federal Pell Grant; (5) are veterans of the Armed Forces of the United States; or (6) have qualified for~~
 2191 ~~financial assistance or relief from the U.S. Department of Agriculture as a distressed farmer in the last five~~
 2192 ~~years;~~

2193 14. ~~For the purposes of establishing criteria by which to evaluate social equity license applicants, establish~~
 2194 ~~standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana~~
 2195 ~~crimes and (ii) which jurisdictions are economically distressed;~~

2196 ~~15. Establish For impact license applicants, establish standards and requirements for (i) any a preference~~
 2197 ~~in the licensing process for qualified social equity applicants; (ii) what percentage of application or license~~
 2198 ~~fees are waived for a qualified social equity applicant, and to promote participation by impact licensees with~~
 2199 ~~an inability to pay standard application and license fees; (iii) a grant or low-interest business loan program~~
 2200 ~~for qualified social equity applicants programs; (iv) a waiver of any requirements to show proof of funds or~~
 2201 ~~current possession and control of the proposed licensed premises at the time of application; and (v) to the~~
 2202 ~~extent practicable, the proportional distribution of licenses among the applicants set forth in clauses (i)~~
 2203 ~~through (vii) of subdivision 13. If at any time the Board determines that an impact license was obtained on~~
 2204 ~~the basis of a fraudulent financial transaction or predatory operating agreement or if a prohibited~~
 2205 ~~assignment, sale, or transfer of an impact license occurs in violation of subsection C of § 4.1-702, the Board~~
 2206 ~~shall immediately begin revocation proceedings pursuant to § 4.1-903 and require the original impact~~
 2207 ~~licensee and any other true parties of interest to repay to the Commonwealth the full value of any and all~~
 2208 ~~application or licensing fees that were waived;~~

2209 ~~16. 15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal~~
 2210 ~~cultivation of marijuana that promote personal and public safety, including child protection, and discourage~~
 2211 ~~personal cultivation practices that create a nuisance, including a nuisance caused by odor;~~

2212 ~~17. 16. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana~~
 2213 ~~or retail, marijuana products, or regulated hemp products, not inconsistent with the provisions of this chapter,~~
 2214 ~~so that such advertising displaces the illicit market and notifies the public of the location of marijuana or~~
 2215 ~~hemp establishments. Such regulations shall be promulgated in accordance with § ~~4.1-1404~~ 4.1-1402;~~

2216 ~~18. 17. Establish restrictions on the number of licenses that a person may be granted to operate a~~
 2217 ~~marijuana establishment in single locality or region; and~~

2218 ~~19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been~~
 2219 ~~granted a license in more than one license category pursuant to subsection C of § ~~4.1-805~~ that ensure all~~
 2220 ~~licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit~~
 2221 ~~the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp~~
 2222 ~~processor that such processor may offer for sale in its retail marijuana stores~~

2223 18. Allow impact licensees and microbusinesses to (i) enter into cooperative agreements; (ii) lease space
 2224 and equipment and cultivate, process, and sell marijuana and marijuana products on the premises of another
 2225 licensee; and (iii) process marijuana or marijuana products out of a shared processing space, provided that
 2226 no more than one license authorizing outdoor cultivation may be exercised on any given parcel of land, nor

2227 *on parcels that are contiguous and under common ownership or control to said parcel;*

2228 *19. Establish an approval process for the Board to approve or deny ownership, financing, management,*
 2229 *and brand-licensing agreements to ensure compliance with § 4.1-807 and establish an investigation process*
 2230 *for determining whether a financial arrangement between a licensee and another party is commercially*
 2231 *reasonable or constitutes undue influence, including the consideration of factors such as price-setting*
 2232 *authority, shelf-space control, financing dependency, or shared personnel. Such regulations shall presume*
 2233 *the permissibility of (i) passive investments resulting in less than a 10 percent equity interest in a licensee,*
 2234 *unless the Board determines such investment otherwise results in undue influence, and (ii) management*
 2235 *services agreements or brand licensing agreements that do not result in actual or contractual rights to*
 2236 *control the management or operations of a licensee. Such regulations shall stipulate that any such*
 2237 *investments or agreements described in clauses (i) and (ii) do not constitute undue influence or independently*
 2238 *render any individual a principal of a licensee; and*

2239 *20. Establish procedures governing ownership disclosure and prior written approval of the Board for the*
 2240 *assignment, sale, or transfer of any license or any change in ownership or control and background*
 2241 *investigations of transferees. Such regulations shall (i) require that ownership interests be traced through all*
 2242 *intermediary entities to the ultimate beneficial owners and (ii) include provisions specifying that a change of*
 2243 *control occurs upon the (a) acquisition of 25 percent or more of equity or voting power, (b) execution of any*
 2244 *instrument conferring appointment or removal rights over managers, or (c) cumulative transfers totaling 25*
 2245 *percent or more within any 24-month period.*

2246 *C. The Board may promulgate regulations that:*

2247 *1. ~~Limit~~ Set the number of licenses issued by type or class to operate a marijuana establishment in order to*
 2248 *ensure that there is a sufficient supply of marijuana to meet demand, provide market stability, avoid market*
 2249 *dominance, ensure a competitive market that considers small business opportunities and concerns, and limit*
 2250 *the sale of unregulated marijuana; however, the number of licenses issued before January 1, 2028, shall not*
 2251 *exceed the following limits:*

2252 *a. Retail marijuana stores, ~~400~~ 350; and*

2253 *b. ~~Marijuana wholesalers, 25;~~*

2254 *e. ~~Marijuana manufacturing facilities, 60; and~~*

2255 *d. ~~Marijuana cultivation facilities, 450~~ Tier V marijuana cultivation facilities, 5.*

2256 *In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any*
 2257 *license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a*
 2258 *permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or*
 2259 *(ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services*
 2260 *pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.*

2261 *Beginning January 1, 2028, the Board shall determine the number of retail marijuana store and tier V*
 2262 *marijuana cultivation facility licenses that the Authority will issue consistent with the goals identified in this*
 2263 *subsection. If the Board makes an additional number of those licenses available, the number of licenses*
 2264 *available to impact licensee applicants shall be equal to or greater than the number of licenses available to*
 2265 *all other applicants.*

2266 *The Board may issue as many licenses as it deems necessary for any other license type not specified in*
 2267 *this subdivision. If the Board does limit the number of licenses available for any other license type not*
 2268 *specified in this subdivision, the number of licenses available to impact licensee applicants shall be equal to*
 2269 *or greater than the number of licenses available to all other applicants.*

2270 *2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and §*
 2271 *4.1-1004, including method of filing a return, information required on a return, and form of payment.*

2272 *3. Limit the allowable square footage of a retail marijuana store, which shall not exceed ~~1,500~~ 2,500*
 2273 *square feet of retail floor space.*

2274 *4. ~~Allow certain persons to be granted or have interest in a license in more than one of the following~~*
 2275 *license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana*
 2276 *wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical*
 2277 *integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to*
 2278 *participate in the market. Ensure that marijuana establishment licenses are, as possible and practicable,*
 2279 *issued evenly among all areas of the Commonwealth; and*

2280 *5. Establish additional market-concentration thresholds, including regional or statewide market-share*
 2281 *and Herfindahl-Hirschman Index (HHI) benchmarks and policies and procedures for denying or*
 2282 *conditioning the issuance of licenses or approval of transfers of licenses that would create undue market*
 2283 *concentration.*

2284 *D. Board regulations shall be uniform in their application, except those relating to hours of sale for*
 2285 *licensees.*

2286 *E. Courts shall take judicial notice of Board regulations.*

2287 *F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any*
 2288 *regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7,*

2289 10, or ~~46~~ 15, and, *except as otherwise provided in § 4.1-603*, shall not promulgate any such regulation that
 2290 has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

2291 G. With regard to regulations governing licensees that have been issued a permit by the Board of
 2292 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2
 2293 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such
 2294 regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health,
 2295 safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to
 2296 deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical
 2297 processors and cannabis dispensing facilities that have been found to be in compliance with regulations
 2298 promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations
 2299 promulgated pursuant to this subtitle.

2300 H. The Board's power to regulate shall be broadly construed.

2301 **§ 4.1-607. Board membership; terms; compensation.**

2302 A. The Authority shall be governed by a Board of Directors, which shall consist of ~~five~~ *seven* citizens at
 2303 large *as follows: four members* appointed by the Governor and confirmed by the affirmative vote of a
 2304 majority of those voting in each house of the General Assembly, *two members appointed by the Speaker of*
 2305 *the House of Delegates, and one member appointed by the Senate Committee on Rules.* Each appointee shall
 2306 (i) have been a resident of the Commonwealth for a period of at least three years next preceding his
 2307 appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum,
 2308 a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of
 2309 demonstrated experience or expertise in the direct management, supervision, or control of a business or legal
 2310 affairs. *Members shall be appointed in a manner that ensures expertise among the Board members in health,*
 2311 *law, agriculture, finance, and law enforcement and at least two members shall be actively engaged in*
 2312 *agricultural production.* Appointees shall reflect the racial, ethnic, gender, and geographic diversity of the
 2313 Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-609.

2314 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members
 2315 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired
 2316 term. No member ~~appointed by the Governor~~ shall be eligible to serve more than two consecutive terms;
 2317 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the
 2318 Board may be removed from office by the ~~Governor~~ *appointing authority* for cause, including the improper
 2319 use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,
 2320 conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution
 2321 or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

2322 C. The Governor shall appoint the ~~chairman~~ *chair* and ~~vice-chairman~~ *vice-chair* of the Board from among
 2323 the membership of the Board. The Board may elect other subordinate officers, who need not be members of
 2324 the Board. The Board may also form committees and advisory councils, which may include representatives
 2325 who are not members of the Board, to undertake more extensive study and discussion of the issues before the
 2326 Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and
 2327 no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties
 2328 of the Authority.

2329 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be
 2330 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written
 2331 request of a majority of the Board members.

2332 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of
 2333 expenses for the performance of their official duties as set forth in the general appropriation act for members
 2334 of the House of Delegates when the General Assembly is not in session, except that the ~~chairman~~ *chair* of the
 2335 Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance
 2336 of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when
 2337 the General Assembly is not in session.

2338 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall
 2339 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the
 2340 Authority.

2341 **§ 4.1-611. Seed-to-sale tracking system.**

2342 To ensure that no ~~retail~~ marijuana or ~~retail~~ marijuana products grown or processed by a marijuana
 2343 establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and
 2344 maintain a seed-to-sale tracking system that tracks ~~retail~~ marijuana from either the seed or immature plant
 2345 stage until the ~~retail~~ marijuana or ~~retail~~ marijuana product is sold ~~to a customer at a retail marijuana store,~~
 2346 *dispensed, or destroyed.*

2347 **§ 4.1-614. Disposition of moneys collected by the Board.**

2348 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall
 2349 be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of
 2350 salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by

2351 § 2.2-1802.

2352 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall
 2353 be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries
 2354 and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses
 2355 incurred in the administration of this subtitle.

2356 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to
 2357 the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise
 2358 provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits
 2359 quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with
 2360 the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment
 2361 owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in
 2362 subsection A, net profits shall be appropriated in the general appropriation act as follows:

2363 1. Forty percent to ~~pre-kindergarten programs for at-risk three-year-olds and four-year-olds~~ *support early*
 2364 *childhood care and early childhood education in the Commonwealth;*

2365 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;

2366 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall
 2367 distribute such appropriated funds to community services boards for the purpose of administering substance
 2368 use disorder prevention and treatment programs; and

2369 4. Five percent to public health programs, including public awareness campaigns that are designed to
 2370 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the
 2371 public of other potential risks.

2372 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local
 2373 marijuana tax revenues collected under *subsection B of § 4.1-1004* and distributed pursuant to § 4.1-614
 2374 *4.1-1004* and all costs, expenses, and charges authorized by this section.

2375 D. All local tax revenues collected under *subsection B of § 4.1-1004 4.1-1004* shall be paid into the state
 2376 treasury as provided in subsection A and credited to a special fund, which is hereby created on the
 2377 Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited
 2378 to the account of the locality in which they were collected. If revenues were collected from a marijuana
 2379 establishment located in more than one locality by reason of the boundary line or lines passing through the
 2380 marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall
 2381 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality
 2382 to which tax revenues are attributable.

2383 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper
 2384 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged
 2385 to the account of each such locality under the special fund created by this section. If errors are made in any
 2386 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to
 2387 some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

2388 **§ 4.1-621. Certain information not to be made public.**

2389 Neither the Board nor its employees shall divulge any information regarding (i) financial reports or
 2390 records required pursuant to this subtitle; (ii) the purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~
 2391 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees; (iii) taxes collected from,
 2392 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system
 2393 maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to
 2394 taxes collected pursuant to this subtitle and to purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~
 2395 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees.

2396 Nothing contained in this section shall prohibit the use or release of such information or documents by the
 2397 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,
 2398 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall
 2399 this section prohibit the Board or its employees from compiling and disseminating to any member of the
 2400 public aggregate statistical information pertaining to (a) tax collection, as long as such information does not
 2401 reveal or disclose tax collection from any identified licensee; (b) the total amount of ~~retail~~ marijuana or ~~retail~~
 2402 marijuana products sales in the Commonwealth by marijuana ~~wholesaler~~ licensees collectively; or (c) the
 2403 total amount of purchases or sales submitted by licensees, provided that such information does not identify
 2404 the licensee.

2405 **§ 4.1-629. Local ordinances or resolutions regulating marijuana or marijuana products.**

2406 A. No county, city, or town shall, except as provided in § 4.1-630, adopt any ordinance or resolution that
 2407 regulates or prohibits the cultivation, processing, possession, sale, distribution, handling, transportation,
 2408 consumption, use, advertising, or dispensing of marijuana or marijuana products in the Commonwealth.

2409 B. However, the governing body of any county, city, or town may adopt an ordinance that prohibits in its
 2410 local public parks, playgrounds, public streets, or any sidewalk adjoining any public street the acts described
 2411 in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty for violation thereof.

2412 C. Except as provided in this section, nothing in this subtitle shall be construed to supersede or limit the

2413 authority of a locality to adopt and enforce local ordinances to regulate businesses licensed pursuant to this
2414 subtitle, including local zoning and land use requirements and business license requirements.

2415 *D. Except as provided in this section, all local acts, including charter provisions and ordinances of*
2416 *counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent*
2417 *of such inconsistency.*

2418 **§ 4.1-630. Local ordinances regulating time of sale of marijuana and marijuana products.**

2419 *The governing body of each county may adopt ordinances effective in that portion of such county not*
2420 *embraced within the corporate limits of any incorporated town, and the governing body of each city and town*
2421 *may adopt ordinances effective in such city or town, fixing hours during which marijuana and marijuana*
2422 *products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any*
2423 *such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of*
2424 *appeal pursuant to § 16.1-106.*

2425 *A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing*
2426 *body adopting it and transmitted to the Board.*

2427 *On and after the effective date of any ordinance adopted pursuant to this section, no marijuana store shall*
2428 *sell marijuana or marijuana products during the hours limited by the ordinance.*

2429 CHAPTER 7.

2430 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

2431 **§ 4.1-700. Exemptions from licensure.**

2432 *The licensure requirements of this subtitle shall not apply to (i) a handler, grower, or processor of*
2433 *industrial hemp that is registered with the Commissioner of Agriculture and Consumer Services pursuant to*
2434 *Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (ii)*
2435 *a person that has been issued a regulated hemp product retail facility registration and is acting in*
2436 *accordance with the provisions of Title 3.2; (iii) a manufacturer of an edible hemp product operating in*
2437 *accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (iv) a person who cultivates*
2438 *marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a)*
2439 *prevent any person described in clauses (i) through (iii) from obtaining a license pursuant to this subtitle,*
2440 *provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp*
2441 *products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et*
2442 *seq.) of Title 3.2; or (c) prevent a cultivation, processing, transporter, microbusiness, or retail licensee from*
2443 *operating on the licensed premises of an industrial hemp processing facility in accordance with Chapter 41.1*
2444 *(§ 3.2-4112 et seq.) of Title 3.2.*

2445 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

2446 *The privilege of any licensee to cultivate, process, transport, deliver, sell, or test marijuana or marijuana*
2447 *products shall extend to such licensee and to all agents or employees of such licensee for the purpose of*
2448 *operating under such license. The licensee may be held liable for any violation of this subtitle or any Board*
2449 *regulation committed by such agents or employees in connection with their employment.*

2450 **§ 4.1-702. Separate license for each place of business; transfer or amendment or license; mandatory**
2451 **holding period for impact licenses; posting; expiration; civil penalties.**

2452 *A. Each license granted by the Board shall designate the place where the business of the licensee will be*
2453 *carried on. A separate license shall be required for each separate place of business.*

2454 *B. No license shall be transferable from one location to another unless such transfer is conducted in*
2455 *accordance with Board regulations. No license shall be assigned, sold, or transferred, nor shall ownership or*
2456 *control of a license be changed, unless the licensee has received prior written approval by the Board and*
2457 *such assignment, sale, transfer, or change is conducted in accordance with Board regulations. Any such*
2458 *change made without approval of the Board is void and shall constitute grounds for immediate suspension or*
2459 *revocation of all affected licenses.*

2460 *C. No impact licensee, nor any person holding a direct or indirect beneficial interest therein, shall sell,*
2461 *assign, or transfer a controlling interest of more than 49 percent of the license to any person or entity for a*
2462 *period of five years from the date the license is issued. The Board may, by regulation, provide for an*
2463 *exception to this mandatory holding period for transfers made as part of an estate plan to a family member or*
2464 *into a trust for the benefit of the licensee's immediate family.*

2465 *D. The Board may permit a licensee to amend the classification of an existing license without complying*
2466 *with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce*
2467 *materially the privileges of an existing license.*

2468 *E. Each license shall be posted in a location conspicuous to the public at the place where the licensee*
2469 *carries on the business for which the license is granted.*

2470 *F. The privileges conferred by any license granted by the Board shall continue until the last day of the*
2471 *twelfth month next ensuing or the last day of the designated month and year of expiration, except the license*
2472 *may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or*
2473 *by operation of law, voluntary surrender, or order of the Board.*

2474 *The Board may grant licenses for one year based on the fees set by the Board pursuant to § 4.1-1002.*

2475 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

2476 A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in
2477 accordance with Board regulations of all marijuana and marijuana products it cultivated, purchased,
2478 processed, sold, developed, researched, tested, or shipped.

2479 B. Every licensed retail marijuana store and microbusiness shall keep complete, accurate, and separate
2480 records in accordance with Board regulations of all purchases of marijuana products, the prices charged
2481 such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed
2482 retail marijuana store and microbusiness shall also preserve all invoices showing its purchases for a period
2483 as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing
2484 quantities of marijuana products sold and the total price charged by it therefor. Except as otherwise provided
2485 in subsections C and D, such account need not give the names or addresses of the purchasers thereof, except
2486 as may be required by Board regulation.

2487 Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores and
2488 microbusinesses may be stored off-site, provided that such records are readily retrievable and available for
2489 electronic inspection by the Board or its agents at the licensed premises. However, in the case that such
2490 electronic records are not readily available for electronic inspection on the licensed premises, the licensee
2491 may obtain Board approval, for good cause shown, to permit the licensee to provide the records to an agent
2492 of the Board within three business days or less, as determined by the Board, after a request is made to inspect
2493 the records.

2494 C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees
2495 or persons who submit marijuana or marijuana products to the marijuana testing facility.

2496 D. The Board and its special agents shall be allowed free access during reasonable hours to every place
2497 in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting
2498 such place and all records, invoices, and accounts therein.

2499 For the purposes of a Board inspection of the records of any retail marijuana store or microbusiness
2500 licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally
2501 is not open to the public substantially during the same hours, "reasonable hours" means the business hours
2502 when the licensee is open to the public. At any other time of day, if the retail marijuana store or
2503 microbusiness licensee's records are not available for inspection, the licensee shall provide the records to an
2504 agent of the Board within 24 hours after a request is made to inspect the records.

2505 **CHAPTER 8.**

2506 **ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.**

2507 **§ 4.1-800. Marijuana cultivation facility license.**

2508 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize
2509 the licensee to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants
2510 and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature
2511 marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana,
2512 immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and
2513 sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer
2514 possession of and sell marijuana to marijuana processing facilities; and to transport marijuana, immature
2515 marijuana plants, and marijuana seeds from the marijuana cultivation facility's licensed premises to another
2516 licensed marijuana establishment:

2517 1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana
2518 indoors or outdoors with a canopy that does not exceed 5,000 square feet.

2519 2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana
2520 indoors or outdoors with a canopy that does not exceed 10,000 square feet.

2521 3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana
2522 indoors with a canopy that does not exceed 15,000 square feet.

2523 4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana
2524 indoors with a canopy that does not exceed 25,000 square feet.

2525 5. Tier V marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana
2526 indoors with a canopy that does not exceed 35,000 square feet.

2527 In consideration of (i) market demand, (ii) utilization rates, (iii) sales data, (iv) product transfers, (v)
2528 inventory data, and (vi) the volume of license applications and issuances, the Board may (a) adjust the
2529 canopy of marijuana cultivation facilities within the square footage parameters set forth in this subsection or
2530 (b) increase the canopy of a marijuana cultivation facility beyond the square footage parameters set forth in
2531 this subsection if the Board determines that such increase will assist or encourage participation by impact
2532 licensees in the industry.

2533 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track
2534 the marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant
2535 or the marijuana produced by the marijuana plant is transported or transferred to a marijuana testing
2536 facility, a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail

2537 marijuana store or is disposed of or destroyed.

2538 C. The cultivation of marijuana by a marijuana cultivation facility licensee in a secure agricultural
2539 greenhouse shall be considered indoor cultivation and shall be permitted, provided that the secure
2540 agricultural greenhouse is surrounded by a privacy fence that is no less than eight feet tall and is subject to
2541 monitored ingress and egress.

2542 D. No more than one marijuana cultivation facility license authorizing outdoor cultivation shall be issued
2543 for any given parcel of land, nor shall any marijuana cultivation facility license authorizing outdoor
2544 cultivation be issued for any parcels that are contiguous and under common ownership or control to such
2545 parcel.

2546 E. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is
2547 cultivated, labeled, packaged, or stored shall meet all sanitary and security standards specified in regulations
2548 adopted by the Board.

2549 **§ 4.1-801. Marijuana processing facility license.**

2550 A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to
2551 process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana
2552 from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and
2553 sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities; to
2554 transfer possession of marijuana and marijuana products to marijuana transporters; and to transport
2555 marijuana and marijuana products from the marijuana processing facility's licensed premises to another
2556 licensed marijuana establishment.

2557 B. All areas within the licensed premises of a marijuana processing facility in which marijuana and
2558 marijuana products are processed shall meet all sanitary and security standards specified in regulations
2559 adopted by the Board. A marijuana processing facility that processes an edible marijuana product shall
2560 comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted
2561 pursuant thereto.

2562 C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track
2563 the marijuana it uses in its processing from the point the marijuana is delivered or transferred to the
2564 marijuana processing facility by a marijuana transporter licensee to the point the marijuana or marijuana
2565 products produced using the marijuana are delivered or transferred to another marijuana processing facility,
2566 a retail marijuana store, a marijuana testing facility, or a marijuana transporter or are disposed of or
2567 destroyed.

2568 **§ 4.1-802. Retail marijuana store license.**

2569 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or
2570 take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a
2571 marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana
2572 products, immature marijuana plants, or marijuana seeds from a marijuana transporter; to sell marijuana,
2573 marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to consumers
2574 on premises approved by the Board; to deliver marijuana, marijuana products, marijuana paraphernalia,
2575 immature marijuana plants, or marijuana seeds only in person to consumers; to transfer possession of
2576 marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to
2577 marijuana delivery operators; and to transport marijuana, marijuana products, marijuana paraphernalia,
2578 immature marijuana plants, and marijuana seeds from the retail marijuana store's licensed premises to
2579 another retail marijuana store.

2580 B. Retail marijuana stores shall be operated in accordance with the following provisions:

2581 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2582 2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature marijuana
2583 plants, or marijuana seeds to consumers only (i) in a direct, face-to-face exchange; (ii) using a licensed
2584 marijuana delivery operator; or (iii) by delivery in person to consumers at any residence, including a
2585 temporary residence, or business; however, a retail marijuana store shall not deliver marijuana, marijuana
2586 products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to (a) any military base,
2587 child day center, school, or correctional facility; (b) the State Capitol; (c) hospital; (d) marine terminal
2588 under the supervision of the Virginia Port Authority; or (e) any public gathering places, including sporting
2589 events, festivals, fairs, races, concerts, and terminals of public transportation companies. A retail marijuana
2590 store shall not be permitted to sell marijuana, marijuana products, marijuana paraphernalia, immature
2591 marijuana plants, or marijuana seeds using:

2592 a. An automated dispensing or vending machine; or

2593 b. A drive-through sales window.

2594 3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of marijuana
2595 or an equivalent amount of marijuana products as determined by regulation promulgated by the Board
2596 during a single transaction to one person.

2597 4. A retail marijuana store shall not sell or market marijuana, marijuana products, marijuana
2598 paraphernalia, immature marijuana plants, or marijuana seeds through an internet-based sales platform

2599 operated by a third party or fulfill any order referred by such internet-based sales platform operated by a
2600 third party.

2601 5. A retail marijuana store shall not:

2602 a. Give away any marijuana, marijuana products, immature marijuana plants, or marijuana seeds except
2603 as otherwise permitted by this subtitle; or

2604 b. Sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to any person
2605 when at the time of such sale he knows or has reason to believe that the person attempting to purchase the
2606 marijuana, marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting
2607 to purchase marijuana for someone younger than 21 years of age.

2608 6. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all
2609 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the
2610 marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred
2611 to the retail marijuana store to the point at which the marijuana, marijuana products, immature marijuana
2612 plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility,
2613 transferred to a marijuana delivery operator, or disposed of or destroyed.

2614 7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of
2615 Title 3.2.

2616 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of
2617 a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a
2618 means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a
2619 place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of
2620 § 40.1-11.3.

2621 D. Each retail marijuana store licensee shall prominently display and make available for dissemination to
2622 consumers Board-approved information regarding the potential risks of marijuana use.

2623 E. Each retail marijuana store licensee shall provide training, established or approved by the Board, to
2624 all employees educating them on how to discuss the potential risks of marijuana use with consumers.

2625 F. All areas within the licensed premises of a retail marijuana store in which marijuana, marijuana
2626 products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary and
2627 security standards specified in regulations adopted by the Board.

2628 **§ 4.1-803. Microbusiness license.**

2629 A. The Board may issue microbusiness licenses, which shall authorize the licensee to conduct any
2630 activities authorized for marijuana cultivation facilities pursuant to § 4.1-800, marijuana processing
2631 facilities pursuant to § 4.1-801, and retail marijuana stores pursuant to § 4.1-802, as determined by the
2632 Board; however, (i) a microbusiness license shall authorize the licensee to cultivate marijuana indoors or
2633 outdoors with an indoor canopy that does not exceed 5,000 square feet and an outdoor canopy that does not
2634 exceed 10,000 square feet, or such other comparable limits as the Board may establish by regulation and (ii)
2635 a microbusiness licensee shall not hold or control any other license and may operate only one licensed
2636 premises.

2637 B. Notwithstanding any other provision of law, a microbusiness licensee may conduct authorized
2638 activities at no more than two separate locations within the Commonwealth, provided that (i) each location is
2639 appropriately zoned and approved by the locality in which it is located; (ii) the locations are within 20 miles
2640 of one another; (iii) all locations operate under the same microbusiness license and common ownership and
2641 control; and (iv) no single license privilege, such as cultivating, processing, or retail sales, shall be exercised
2642 at more than one location.

2643 C. Unless otherwise provided by law or the Board, a microbusiness licensee shall be subject to the same
2644 statutory requirements and regulations as marijuana cultivation facilities, marijuana processing facilities,
2645 and retail marijuana stores, including requirements for (i) tracking all marijuana, marijuana products,
2646 immature marijuana plants, or marijuana seeds in accordance with § 4.1-611 and (ii) ensuring all areas
2647 within the licensed premises of the microbusiness meet all sanitary and security standards specified in
2648 regulations adopted by the Board.

2649 **§ 4.1-804. Marijuana transporter license.**

2650 A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take
2651 possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a
2652 marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, a microbusiness, or
2653 another marijuana transporter; to transfer possession of marijuana, marijuana products, immature
2654 marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility,
2655 retail marijuana store, microbusiness, or another marijuana transporter; and to transport marijuana,
2656 marijuana products, immature marijuana plants, and marijuana seeds from one licensed establishment to
2657 another.

2658 B. All areas within the licensed premises of a marijuana transporter in which marijuana and marijuana
2659 products are stored shall meet all sanitary and security standards specified in regulations adopted by the
2660 Board.

2661 C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the
 2662 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the
 2663 marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to
 2664 the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana
 2665 processor, marijuana transporter, retail marijuana store, microbusiness, or marijuana testing facility or are
 2666 disposed of or destroyed.

2667 **§ 4.1-805. Marijuana delivery operator license.**

2668 A. The Board may issue marijuana delivery operator licenses, which shall authorize the licensee to take
 2669 possession of marijuana or marijuana products from a retail marijuana store or microbusiness and deliver
 2670 such marijuana or marijuana products only in person to consumers at any residence, including a temporary
 2671 residence, or business; however, a delivery operator licensee shall not deliver marijuana or marijuana
 2672 products to (i) any military base, child day center, school, or correctional facility; (ii) the State Capitol; (iii)
 2673 hospital; (iv) marine terminal under the supervision of the Virginia Port Authority; or (v) any public
 2674 gathering places, including sporting events, festivals, fairs, races, concerts, and terminals of public
 2675 transportation companies.

2676 B. In accordance with the requirements of § 4.1-611, a marijuana delivery operator licensee shall track
 2677 the marijuana or marijuana products from the point at which the marijuana or marijuana products are
 2678 transferred to the marijuana delivery operator to the point at which the marijuana or marijuana products are
 2679 delivered or transferred to the consumer or are disposed of or destroyed.

2680 **§ 4.1-806. Marijuana testing facility license.**

2681 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,
 2682 research, transport, or test marijuana, marijuana products, and other substances.

2683 B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for (i)
 2684 that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana product for
 2685 personal use as authorized under § 4.1-1100.

2686 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana
 2687 testing facility from developing, researching, or testing substances that are not marijuana or marijuana
 2688 products for that facility or for another person.

2689 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
 2690 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
 2691 Standardization by a third-party accrediting body.

2692 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all
 2693 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the
 2694 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at
 2695 which the marijuana or marijuana products are disposed of or destroyed.

2696 F. A person that has an interest in a marijuana testing facility license shall not have any interest in a
 2697 licensed marijuana cultivation facility, licensed marijuana processing facility, licensed marijuana
 2698 transporter, licensed retail marijuana store, or licensed microbusiness.

2699 G. All areas within the licensed premises of a marijuana testing facility in which marijuana or marijuana
 2700 products are tested or stored shall meet all sanitary and security standards specified in regulations adopted
 2701 by the Board.

2702 **§ 4.1-807. Multiple licenses awarded to one person; limitations.**

2703 A. As used in this section, "interest" means a direct or indirect equity ownership interest, a partial equity
 2704 ownership interest, or any other financial or economic interest representing at least 10 percent or more of
 2705 the ownership, voting power, or economic value of an entity, including being an investor, partner, member,
 2706 officer, or director or serving in any other management position.

2707 B. A person may possess or hold interest in one or any combination of the following licenses pursuant to
 2708 Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license,
 2709 tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, tier V marijuana
 2710 cultivation facility license, marijuana processing facility license, marijuana transporter license, marijuana
 2711 delivery operator license, or retail marijuana store license. Board regulations shall be drawn to ensure that
 2712 all licensees have an equal and meaningful opportunity to participate in the market. Moreover, except as
 2713 provided in subsection C, (i) no person shall be granted or hold interest in more than five total licenses, not
 2714 including marijuana transporter licenses, issued pursuant to this subtitle or more than one tier V marijuana
 2715 cultivation facility license; (ii) no person that has been granted or holds interest in a marijuana cultivation
 2716 facility license, marijuana processing facility license, marijuana transporter license, marijuana delivery
 2717 operator license, retail marijuana store license, or microbusiness license shall be issued or hold interest in a
 2718 marijuana testing facility license; (iii) no person that has been granted or holds interest in a microbusiness
 2719 license shall be issued or hold interest in any other marijuana establishment; and (iv) no person that has
 2720 been granted or holds interest in a pharmaceutical processor permit pursuant to Chapter 16 (§ 4.1-1600 et
 2721 seq.) shall be issued or hold interest in any other marijuana establishment license, except for the cannabis
 2722 dispensing facility permits allowed pursuant to § 4.1-1602.

2723 C. Nothing in this section shall be construed to prohibit any person or entity that, as of July 1, 2026, owns
 2724 and controls a pharmaceutical processor permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) or a conditional
 2725 permit in more than one health service area, provided such person or entity continuously holds such
 2726 pharmaceutical processor permits or conditional permits after July 1, 2026.

2727 **§ 4.1-808. Temporary permits required in certain instances.**

2728 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured
 2729 creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has
 2730 become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana
 2731 establishment to the same extent as the license holder for a period not to exceed 60 days or for such longer
 2732 period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any
 2733 licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be
 2734 issued in advance, conditioned on the requirements in this subsection.

2735 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any
 2736 cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary
 2737 permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of
 2738 three business days after the order of the revocation has been mailed to the permittee at either his residence
 2739 or the address given for the business in the permit application. No further notice shall be required.

2740 **§ 4.1-809. Licensee shall maintain possession of premises.**

2741 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of
 2742 the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental
 2743 agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If
 2744 the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

2745 **§ 4.1-810. Conditions under which the Board shall or may refuse to grant licenses.**

2746 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting of the
 2747 license would be detrimental to the interest, morals, safety, or welfare of the public or would be inconsistent
 2748 with the provisions of this subtitle.

2749 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

2750 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an
 2751 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
 2752 applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
 2753 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
 2754 percent or more of the membership interest of the limited liability company:

2755 a. Is not 21 years of age or older;

2756 b. Has been convicted in any court of a felony, other than a conviction for a felony violation of
 2757 § 18.2-248.1, or any crime or offense involving moral turpitude under the laws of any state or of the United
 2758 States within seven years of the date of the application or has not completed all terms of sentencing and
 2759 probation resulting from any such conviction;

2760 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;

2761 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership
 2762 interests in the business that have not been disclosed;

2763 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
 2764 proposed to be licensed;

2765 f. Has misrepresented a material fact in applying to the Board for a license;

2766 g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
 2767 governmental agency or authority, by making or filing any report, document, or tax return required by statute
 2768 or regulation that is fraudulent or contains a false representation of a material fact, or has willfully deceived
 2769 or attempted to deceive the Board, or any federal, state, or local government or governmental agency or
 2770 authority, by making or maintaining business records required by statute or regulation that are false or
 2771 fraudulent;

2772 h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his
 2773 application for a license is pending;

2774 i. Is a full-time or part-time employee of the Department of State Police or of a police department or
 2775 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,
 2776 and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth;

2777 j. Has been sanctioned by the Board pursuant to regulations promulgated by the Board for a violation
 2778 pursuant to Chapter 16 (§ 4.1-1600 et seq.);

2779 k. Is physically unable to carry on the business for which the application for a license is filed or has been
 2780 adjudicated incapacitated; or

2781 l. Is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest
 2782 related thereto, lawfully imposed by the locality where the place to be occupied by the applicant is located, as
 2783 certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the
 2784 outstanding amount is de minimis; (ii) the applicant has pending a bona fide application for correction or

2785 *appeal with respect to such taxes, penalties, or interest; or (iii) the applicant has entered into a payment plan*
 2786 *approved by the same locality to settle the outstanding liability.*

2787 *2. The applicant is a member or employee of the Board or is a corporation or other business entity in*
 2788 *which a member or employee of the Board is a stockholder or has any other economic interest. Whenever any*
 2789 *other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such*
 2790 *a license or continuance thereof, he shall state on the application the official position he holds, and whenever*
 2791 *a corporation or other business entity in which any such official is a stockholder or has any other economic*
 2792 *interest applies for such a license, it shall state on the application the full economic interests of each such*
 2793 *official in such corporation or other business entity.*

2794 *3. The place to be occupied by the applicant:*

2795 *a. Does not conform to the requirements of the governing body of the county, city, or town in which such*
 2796 *place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements*
 2797 *established by the laws of the Commonwealth or by Board regulation;*

2798 *b. Is so located that granting a license and operation thereunder by the applicant would result in*
 2799 *violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local*
 2800 *ordinances relating to peace and good order;*

2801 *c. When the applicant is applying for a retail marijuana store license or microbusiness license, is (i)*
 2802 *located within 1,000 feet of any hospital; public, private, or parochial school or institution of higher*
 2803 *education; or child day program; or (ii) so located with respect to any such facilities, programs, or*
 2804 *institutions that the operation of such place under such license will adversely affect or interfere with the*
 2805 *normal, orderly conduct of the affairs of such facilities, programs, or institutions;*

2806 *d. When the applicant is applying for a retail marijuana store license or microbusiness license, is so*
 2807 *located with respect to any residence or residential area that the operation of such place under such license*
 2808 *will adversely affect real property values or substantially interfere with the usual quietude and tranquility of*
 2809 *such residence or residential area;*

2810 *e. Is so constructed, arranged, or illuminated that law-enforcement officers and agents of the Board are*
 2811 *prevented from ready access to and reasonable observation of any room or area within which marijuana or*
 2812 *marijuana products are to be sold; or*

2813 *f. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured, sold, or*
 2814 *used.*

2815 *Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or*
 2816 *premises until the final stage of the license approval process.*

2817 *4. The number of licenses existing in the locality is such that the granting of a license is detrimental to the*
 2818 *interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider (i) the*
 2819 *criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in*
 2820 *the community; (ii) the character of, population of, number of similar licenses in, and number of all licenses*
 2821 *existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) the effect that*
 2822 *a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this*
 2823 *subtitle; and (iv) the objections, if any, that may have been filed by a local governing body or local residents.*

2824 *5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political*
 2825 *subdivision thereof that warrants refusal by the Board to grant any license.*

2826 *6. The Board is not authorized under this subtitle to grant such license.*

2827 **§ 4.1-811. Denial of license or permit final.**

2828 *The denial of a license or permit by the Board shall be final unless appealed pursuant to § 4.1-1009.*

2829 **CHAPTER 9.**

2830 **ADMINISTRATION OF LICENSES; DENIAL, SUSPENSION, AND REVOCATION.**

2831 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

2832 *A. The Board may suspend or revoke any license if it has reasonable cause to believe that:*

2833 *1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an*
 2834 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the*
 2835 *licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock,*
 2836 *or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or*
 2837 *more of the membership interest of the limited liability company:*

2838 *a. Has misrepresented a material fact in applying to the Board for such license;*

2839 *b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903,*
 2840 *has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter*
 2841 *13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or*
 2842 *refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with*
 2843 *any of the conditions or restrictions of the license granted by the Board;*

2844 *c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under*
 2845 *the laws of any state or of the United States;*

2846 *d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other*

2847 persons have ownership interests in the business that have not been disclosed;

2848 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business

2849 conducted under the license granted by the Board;

2850 f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed

2851 premises;

2852 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become

2853 a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of

2854 ill repute, or has allowed any form of illegal gambling, as defined in § 18.2-325, to take place upon such

2855 premises;

2856 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such

2857 licensed premises;

2858 i. Has allowed any person to consume upon the licensed premises any alcohol, marijuana, or marijuana

2859 product;

2860 j. Is physically unable to carry on the business conducted under such license or has been adjudicated

2861 incapacitated;

2862 k. Has possessed any illegal gambling device upon the licensed premises;

2863 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly

2864 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled

2865 substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms

2866 are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the

2867 Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired

2868 to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug

2869 Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of

2870 the licensed business that facilitates the commission of any of the offenses set forth herein;

2871 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises

2872 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of

2873 public property immediately adjacent to the licensed premises from becoming a place where patrons of the

2874 establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1

2875 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.),

2876 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of

2877 Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or

2878 Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such

2879 violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to

2880 the public safety;

2881 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious

2882 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises

2883 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of

2884 public property immediately adjacent to the licensed premises; or

2885 o. Has been sanctioned by the Board pursuant to regulations promulgated by the Board for a violation

2886 pursuant to Chapter 16 (§ 4.1-1600 et seq.).

2887 2. The place occupied by the licensee:

2888 a. Does not conform to the requirements of the governing body of the county, city, or town in which such

2889 establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar

2890 requirements established by the laws of the Commonwealth or by Board regulations;

2891 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

2892 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,

2893 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are

2894 regularly used or distributed. The Board may consider the general reputation in the community of such

2895 establishment in addition to any other competent evidence in making such determination.

2896 3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of

2897 the United States by prices charged or otherwise.

2898 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the

2899 facts been known.

2900 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties

2901 or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified

2902 by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding

2903 amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with

2904 respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by

2905 the same locality to settle the outstanding liability.

2906 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its

2907 agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed

2908 premises in the Commonwealth.

2909 7. The Board finds that the licensee assigned, sold, or transferred a license or changed ownership or
2910 control of the license without prior written approval of the Board as required pursuant to § 4.1-702.

2911 8. Any other cause authorized by this subtitle.

2912 B. The Board shall promulgate regulations regarding suspension and revocation standards and protocols.

2913 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

2914 A. The Board may summarily suspend or restrict any license or permit without a hearing if the Board
2915 finds that such suspension or restriction is necessary to prevent substantial danger to public health or safety.
2916 The Board shall make decisions to summarily suspend or restrict a license or permit only during an in-person
2917 meeting in which a quorum is present; however, if, after a good faith effort, the Board is unable to assemble a
2918 quorum and a majority of the Board members determine that continued operation by the licensee or
2919 permittee constitutes a substantial danger to public health or safety, the Board may summarily suspend the
2920 license or permit during a telephone, video, or other electronic conference. Institution of proceedings for a
2921 hearing shall be provided simultaneously with a summary suspension. The Board may summarily restrict a
2922 license or permit without proceeding simultaneously with notification of an informal conference pursuant to
2923 § 2.2-4019 or Board regulations. Such hearing or conference shall be held within a reasonable amount of
2924 time after the summary suspension or restriction is issued.

2925 B. Allegations of violations of this subtitle shall be submitted to the Board in writing.

2926 C. This section shall not apply to temporary permits granted under § 4.1-808.

2927 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

2928 The Board shall suspend or revoke any license if it finds that:

2929 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a
2930 gambling device, upon the premises for which the Board has granted a retail marijuana store or
2931 microbusiness license.

2932 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government
2933 or governmental agency or authority, by making or filing any report, document, or tax return required by
2934 statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact
2935 or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or
2936 governmental agency or authority, by making or maintaining business records required by statute or
2937 regulation that are false or fraudulent.

2938 3. The licensee is not operational within 12 months of the issuance of the license.

2939 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

2940 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
2941 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
2942 Administrative Process Act (§ 2.2-4000 et seq.).

2943 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,
2944 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the
2945 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or
2946 present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board
2947 and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle
2948 against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or
2949 copies or portions thereof, that are within the possession, custody, or control of the Board and upon which
2950 the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee.
2951 In addition, any subpoena for the production of documents issued to any person at the request of the licensee
2952 or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10
2953 working days, notwithstanding anything to the contrary in § 4.1-604.

2954 If the Board fails to provide for inspection or copying under this section for the licensee after a written
2955 request, the Board shall be prohibited from introducing into evidence any items the licensee would have
2956 lawfully been entitled to inspect or copy under this section.

2957 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be
2958 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review
2959 shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the
2960 Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.
2961 Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed,
2962 or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction
2963 shall lie in any such case.

2964 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such
2965 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
2966 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and
2967 collect such civil penalties as it deems appropriate.

2968 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his
2969 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent
2970 agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a)

2971 *admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal*
 2972 *under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for*
 2973 *operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's*
 2974 *parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as*
 2975 *applicable, or (4) proceed to a hearing.*

2976 *D. The Board shall, by regulation or written order:*

2977 *1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial*
 2978 *hearing;*

2979 *2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of*
 2980 *suspension may be accepted for a first offense occurring within three years immediately preceding the date of*
 2981 *the violation;*

2982 *3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil*
 2983 *penalty for any retail marijuana store or microbusiness licensee where the licensee can demonstrate that it*
 2984 *provided to its employees marijuana seller training certified in advance by the Board;*

2985 *4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license*
 2986 *and the civil charge acceptable in lieu of such suspension; and*

2987 *5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee*
 2988 *has had no prior violations within five years immediately preceding the date of the violation. No waiver shall*
 2989 *be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board*
 2990 *regulations.*

2991 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on hand;**
 2992 **termination.**

2993 *A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the*
 2994 *time the license of such person is suspended or revoked may be disposed of as follows:*

2995 *1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon*
 2996 *permits granted by the Board in accordance with § 4.1-808 and conditions specified by the Board; or*

2997 *2. Destroyed by the Board or its designee.*

2998 *B. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the*
 2999 *time the license of such person is suspended may be placed on administrative hold by the Board during any*
 3000 *such suspension period. For the purpose of this subsection, "administrative hold" means a status given to*
 3001 *marijuana or marijuana product by the Board that prohibits any activity with the marijuana or marijuana*
 3002 *product, including waste, sale, or transfer of the marijuana or marijuana product, until the administrative*
 3003 *hold is lifted.*

3004 *C. All marijuana or marijuana products owned by or in the possession of any person whose license is*
 3005 *suspended or revoked shall be placed on administrative hold or disposed of by such person in accordance*
 3006 *with the provisions of this section within 60 days from the date of such suspension or revocation.*

3007 *D. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose*
 3008 *licenses have been terminated other than by suspension or revocation may be disposed of in accordance with*
 3009 *subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.*

3010 *E. All marijuana or marijuana products owned by or remaining in the possession of any person described*
 3011 *in subsection A or D after the expiration of such period shall be deemed contraband and forfeited to the*
 3012 *Commonwealth in accordance with the provisions of § 4.1-1303.*

CHAPTER 10.

3014 **ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.**

3015 **§ 4.1-1000. Applications for licenses; procedures; notice to localities; fees; permits.**

3016 *A. The Authority shall announce the commencement of a licensing period in advance of accepting*
 3017 *applications for marijuana establishment licenses. At a minimum, the announcement shall include:*

3018 *1. The types of licenses that will be available during the licensing period;*

3019 *2. If the Board limits the number of a type of license that will be available, the number of that type of*
 3020 *license available in the licensing period;*

3021 *3. The date on which the Authority will begin accepting applications; and*

3022 *4. The date on which the Authority will no longer accept applications.*

3023 *B. Every person intending to apply for any license authorized by this subtitle shall file with the Board an*
 3024 *application on forms provided by the Board and a statement in writing by the applicant swearing and*
 3025 *affirming that all of the information contained therein is true.*

3026 *C. Such applications, including applications for renewal, shall include any information necessary for the*
 3027 *Board to determine whether the applicant meets or continues to meet the criteria set forth in subdivision B 13*
 3028 *of § 4.1-606. If the Authority receives an application that fails to include such required information or an*
 3029 *applicant fails to pay the applicable application fee as required by subsection K, the Authority shall issue a*
 3030 *deficiency notice to the applicant. The applicant may submit the required information or pay the required*
 3031 *application fee within 10 calendar days from the date of the deficiency notice. Failure by an applicant to*
 3032 *submit all required information or pay the application fee within such 10-day period shall result in the*

3033 application being rejected.

3034 D. After an applicant submits an application that contains all required information and pays the
3035 applicable application fee, the Authority shall review the application. The Authority may deny an application
3036 if:

3037 1. The application is incomplete;

3038 2. The application contains a materially false statement about the applicant or omits information
3039 required;

3040 3. The applicant meets any condition set forth in § 4.1-810;

3041 4. The applicant is prohibited from holding the license under this subtitle;

3042 5. The applicant fails to pay the applicable application fee;

3043 6. The application was not submitted by the application deadline;

3044 7. The applicant submitted more than one application for a license type; or

3045 8. The Authority determines that the applicant would be prohibited from holding a license for any other
3046 reason.

3047 If the Authority denies an application, the Authority shall notify the applicant of the denial and the basis
3048 for the denial. The Authority may request additional information from any applicant if the Authority
3049 determines that the information is necessary to review or process the application. If the applicant does not
3050 provide the additional requested information within 10 calendar days of the Authority's request for
3051 information, the Authority may deny the application. An applicant whose application is not denied pursuant
3052 to this subsection is a qualified applicant.

3053 E. If the number of qualified applicants seeking a type of license exceeds the number of licenses of that
3054 type that are made available, the Authority shall first conduct a lottery to select qualified applicants for
3055 preliminary license approval. If the number of impact licensee applicants seeking a type of license exceeds
3056 the number of licenses made available for impact licensee applicants, the Authority shall first conduct a
3057 lottery consisting of impact licensee applicants to select applicants for preliminary license approval. If an
3058 impact licensee applicant is not selected in a lottery conducted under this subsection, the Authority shall
3059 include the impact licensee applicant in the pool of qualified applicants for licenses of that type that are
3060 made available to all applicants. A lottery conducted pursuant to this subsection shall be impartial, random,
3061 and in a format determined by the Authority.

3062 F. Following the completion of any lottery conducted pursuant to subsection E, the Authority shall notify
3063 each applicant entered in the lottery that the applicant was either selected in the lottery for preliminary
3064 license approval or not selected in the lottery. Within 18 months of receiving notice that an applicant was
3065 selected in the lottery for preliminary license approval, such applicant shall provide:

3066 1. The address and legal property description of the location where the marijuana establishment will
3067 operate;

3068 2. The name of the local governing body where the marijuana establishment will be located;

3069 3. If applicable, an updated description of the location where the marijuana establishment will operate,
3070 an updated security plan, and any other additional information required by the Authority; and

3071 4. For applicants for licenses for establishments that are otherwise required to obtain an inspection by the
3072 Department of Agriculture and Consumer Services, proof of inspection or proof of a pending request for such
3073 inspection.

3074 A preliminary license approval expires after 18 months unless the Authority revokes the preliminary
3075 license approval or grants an extension. The Authority may grant a one-time extension of up to six months if
3076 an applicant has made good faith efforts to convert a preliminary license approval into a license. The
3077 Authority shall not issue a license to an applicant whose preliminary license approval has expired. If the
3078 Authority determines that an applicant is not eligible for a license, the Authority may revoke a preliminary
3079 license approval. The Authority shall notify an applicant if the Authority revokes the applicant's preliminary
3080 license approval or if the applicant's preliminary license approval expires.

3081 G. Upon receipt of the information required under subsection F from an applicant that has received
3082 preliminary license approval, the Authority shall (i) notify the local governing body of the applicant through
3083 the town manager, city manager, county administrator, or other designee of the locality; (ii) schedule a site
3084 inspection; and (iii) require the applicant to pay the applicable license fee established pursuant to
3085 § 4.1-1002. Local governing bodies notified pursuant to clause (i) shall submit any objections to the granting
3086 of a license within 30 days of the Authority's notification;

3087 H. The Authority may deny final authorization of a license if:

3088 1. An applicant fails to submit any required information;

3089 2. The applicant submits a materially false statement about the applicant or fails to provide any required
3090 information;

3091 3. The Authority confirms that the marijuana establishment for which the Authority granted preliminary
3092 license approval does not meet local zoning and land use laws;

3093 4. The applicant fails to pay the applicable license fee;

3094 5. The applicant meets any condition set forth in § 4.1-810; or

3095 6. The Authority determines that the applicant is disqualified from holding the license or would operate in
 3096 violation of the provisions of this subtitle.

3097 I. Within 90 days of receiving the information required under subsection F and the results of any required
 3098 background check pursuant to subsection J, the Authority shall grant final authorization and issue the
 3099 appropriate license or send the applicant a notice of rejection setting forth the specific reasons that the
 3100 Authority did not issue the license. If final authorization is granted and a license is issued to an establishment
 3101 that is otherwise required to obtain an inspection by the Department of Agriculture and Consumer Services
 3102 and such licensee provided proof of a pending request for such inspection pursuant to subdivision F 4, such
 3103 license shall authorize the licensee to purchase marijuana, marijuana products, immature marijuana plants,
 3104 or marijuana seeds in accordance with the provisions of this subtitle; however, the licensee shall not sell
 3105 marijuana, marijuana products, immature marijuana plants, or marijuana seeds until an inspection is
 3106 completed.

3107 J. The Board, in conjunction with an accredited law-enforcement agency, shall conduct a background
 3108 investigation, including a criminal history records check and fingerprinting, of the following individuals: (i)
 3109 every individual applying for a license or permit pursuant to this subtitle; (ii) every individual who is an
 3110 officer, director, or principal of a licensee or applicant for a license; and (iii) all permit holders and officers,
 3111 directors, and principals. Each such individual shall submit his fingerprints and personal descriptive
 3112 information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of
 3113 Investigation for a national criminal records search and to the Department of State Police for a Virginia
 3114 criminal history records check. The results of the background check and national and state criminal records
 3115 check shall be returned to the Board. Notwithstanding the foregoing, the Board may accept a third-party
 3116 local and national criminal background check submitted by any such individual specified in clause (i), (ii), or
 3117 (iii) in lieu of a fingerprint-based national criminal history records check. Any such third-party background
 3118 check shall (a) be conducted by a third-party consumer reporting agency or background screening company
 3119 that is in compliance with the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) and accredited by
 3120 the Professional Background Screening Association and (b) include a multistate and multi-jurisdiction
 3121 criminal record locator or other similar commercial nationwide database with validation and other such
 3122 background screening as the Board may require. The applicant shall request such background check not
 3123 more than 60 days prior to submission of the application.

3124 In considering criminal history record information, subject to the provisions of subdivision B 1 b of
 3125 § 4.1-810, the Board shall not disqualify an applicant because of a past conviction for a marijuana-related
 3126 offense.

3127 K. Each applicant shall pay the required application fee at the time the application is filed. The license
 3128 application fee shall be determined by the Board and shall be in addition to the actual cost charged to the
 3129 Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records
 3130 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
 3131 Criminal Records Exchange for each criminal history records search required by the Board. Application fees
 3132 shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

3133 L. Subsection B shall not apply to the continuance of licenses granted under this subtitle; however, all
 3134 licensees shall file and maintain with the Board a current, accurate record of the information required by the
 3135 Board pursuant to subsection C and notify the Board of any changes to such information in accordance with
 3136 Board regulations.

3137 M. Every application for a permit granted pursuant to § 4.1-808 shall be on a form provided by the
 3138 Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth
 3139 as otherwise provided by law.

3140 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
 3141 applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied by
 3142 the number of months for which the permit is granted.

3143 N. If the Authority holds a lottery as provided in subsection E, the Authority shall retain the applications
 3144 of any applicant not selected in the lottery for one year. The Authority shall consider a retained application
 3145 during any licensing periods that begin within the year and, except as otherwise provided in this chapter, the
 3146 Authority shall treat a retained application as if the application were submitted during the licensing period.

3147 At the beginning of a subsequent licensing period, the applicant may amend an application or provide
 3148 additional information to the Authority and the Authority may request additional information from any
 3149 applicant whose application is retained to determine if the applicant meets the requirements for a subsequent
 3150 licensing period. If the applicant does not provide the requested information to the Authority within 14
 3151 calendar days of the Authority's request, the Authority may deny the application. The Authority shall not
 3152 charge an additional application fee to an applicant whose application was retained.

3153 An applicant may withdraw a retained application at any time. If the applicant withdraws a retained
 3154 application, the applicant may submit a new application during a licensing period. An applicant that
 3155 withdraws a retained application and submits a new application shall pay the applicable application fee. The
 3156 Authority may disqualify an application from retention if the Authority is authorized to deny the application

3157 pursuant to subsection D.

3158 **§ 4.1-1001. Labor peace agreements.**

3159 A. For purposes of this section:

3160 "Bona fide labor organization" means a labor organization, as defined by 29 U.S.C. § 402(i), that is
3161 actively seeking to represent marijuana establishment employees in the Commonwealth. In determining
3162 whether a labor organization is a bona fide labor organization, the Authority shall consider each of the
3163 following as indicative, but not determinative, of a finding that a labor organization is a bona fide labor
3164 organization:

3165 1. The labor organization has been recognized or certified as the bargaining representative for marijuana
3166 establishment employees in the Commonwealth;

3167 2. The labor organization has executed current collective bargaining agreements with marijuana
3168 establishment employers in the Commonwealth;

3169 3. The labor organization has spent resources as part of current and active attempts to organize and
3170 represent marijuana establishments in the Commonwealth;

3171 4. The labor organization has filed the annual report required by 29 U.S.C. § 431(b) for the three years
3172 immediately preceding;

3173 5. The labor organization has audited financial reports covering the three years immediately preceding;

3174 6. The existence of written bylaws or a constitution for the three years immediately preceding; and

3175 7. The labor organization's affiliation with any regional or national association of unions, including
3176 central labor councils.

3177 "Labor peace agreement" means an agreement between a marijuana establishment and a bona fide labor
3178 organization that, at a minimum, protects the Commonwealth's proprietary interests by prohibiting the labor
3179 organization from engaging in picketing, work stoppages, or boycotts against the marijuana establishment.

3180 B. All marijuana establishment license applicants, renewal applicants, and license holders shall have
3181 entered into, maintained, and abided by the terms of a labor peace agreement. Such labor peace agreement
3182 requirement is an ongoing material condition of the license, of which a violation may result in denial,
3183 suspension, or revocation of the license.

3184 C. All initial marijuana establishment license applicants shall submit a labor peace agreement attestation
3185 (LPA attestation) signed by both the applicant and the bona fide labor organization stating that the applicant
3186 meets this section's requirements and has entered into, maintained, and abided by the terms of the LPA
3187 attestation. All renewal applicants must submit a new LPA attestation executed within 10 days of the
3188 submission date of the renewal application. An applicant's failure to submit a timely LPA attestation shall
3189 result in a denial of the initial or renewal license.

3190 D. The Authority shall be required to determine a schedule establishing the ongoing review of the status
3191 and maintenance of a labor peace agreement to assess eligibility of license holder. Upon review and findings
3192 of unsatisfactory status or the insufficient maintenance of a labor peace agreement, the Authority shall
3193 suspend a licensee for a marijuana establishment.

3194 **§ 4.1-1002. Fees for state licenses.**

3195 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover the
3196 costs of regulating the marijuana establishment.

3197 B. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant
3198 license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall
3199 be liable to state merchants' license taxation, state restaurant license taxation, and other state taxation.

3200 **§ 4.1-1003. Refund of state license fee.**

3201 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any
3202 amounts collected through erroneous assessments or collected as fees on license applications that are
3203 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is
3204 subsequently merged or changed into another license during the same license period. No refund shall be
3205 made of any such amount, however, unless made within three years from the date of collection of the same.

3206 B. In any case where a licensee has changed its name or form of organization during a license period
3207 without any change being made in its ownership, and because of such change is required to pay an additional
3208 license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of
3209 the required license fee for such period.

3210 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of
3211 state license fees paid pursuant to subsection A of § 4.1-1002 if the place of business designated in the license
3212 is destroyed by an act of God, including a fire, earthquake, hurricane, storm, or similar natural disaster or
3213 phenomenon.

3214 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of
3215 moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

3216 **§ 4.1-1004. Marijuana taxes; exceptions.**

3217 A. A tax of six percent is levied on the sale in the Commonwealth of any marijuana or marijuana
3218 products. Subject to the provisions of subsection C, the tax shall be in addition to any tax imposed under the

3219 Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local
3220 law. The tax shall not apply to any sale:

3221 1. From a marijuana establishment to another marijuana establishment.

3222 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

3223 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1
3224 (§ 3.2-4112 et seq.) of Title 3.2.

3225 4. Of a hemp product.

3226 B. 1. Each locality shall by ordinance levy an additional local tax on any sale taxable under subsection A
3227 at a rate not less than one percent but not greater than three and one-half percent. Other than the tax
3228 authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under
3229 subsection A. The tax imposed by a surrounding county under this subsection shall not apply within the limits
3230 of any town. Each locality shall, within 30 days, notify the Authority and any retail marijuana store and
3231 microbusiness in such locality of the ordinance enacted pursuant to this subsection. The ordinance shall take
3232 effect on the first day of the second month following its enactment and such rate shall be effective for at least
3233 three years.

3234 2. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax authorized
3235 by law on a person or property regulated under this subtitle or (ii) limit the authority of any locality to
3236 impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under
3237 subsection A if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b) an
3238 annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under
3239 subsection A in its taxable measure.

3240 C. The provisions of Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 shall apply to all sales taxable under
3241 subsection A, mutatis mutandis.

3242 D. All revenues remitted to the Authority under this subsection shall be disposed of as provided in
3243 § 4.1-614.

3244 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

3245 A. For any sale taxable under § 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes
3246 collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable
3247 for collecting or remitting the taxes or filing a return.

3248 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1004 shall file a
3249 return under oath with the Authority and pay any taxes due. Upon written application by a person filing a
3250 return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar
3251 month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of
3252 any interest or penalties under § 4.1-1008.

3253 C. The Authority may accept payment by any commercially acceptable means, including cash, checks,
3254 credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this
3255 subtitle. The Board may assess a service charge for the use of a credit or debit card.

3256 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or
3257 automated clearinghouse transfer information and use such information for future payments of taxes,
3258 interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments
3259 made under this subsection. The Authority may procure the services of a third-party vendor for the secure
3260 storage of information collected pursuant to this subsection.

3261 E. If any person liable for tax under § 4.1-1004 sells out his business or stock of goods or quits the
3262 business, such person shall make a final return and payment within 15 days after the date of selling or
3263 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase
3264 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner
3265 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or
3266 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided
3267 in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and
3268 unpaid on account of the operation of the business by any former owner.

3269 F. When any person fails to timely pay the full amount of tax due under § 4.1-1004, interest at a rate
3270 determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under
3271 § 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

3272 **§ 4.1-1006. Bonds.**

3273 The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the
3274 taxes levied under § 4.1-1004, require any person subject to such tax to file a bond, with such surety as it
3275 determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due
3276 from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State
3277 Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State
3278 Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to
3279 recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above
3280 the amounts due shall be returned to the person who deposited the securities.

3281 **§ 4.1-1007. Refunds.**

3282 *In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1004 has*
 3283 *been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of*
 3284 *tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the*
 3285 *seller shall not, however, include the tax paid upon any amount retained by the seller after such return of*
 3286 *merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting*
 3287 *his return.*

3288 **§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

3289 *A. The taxes imposed under § 4.1-1004 shall be assessed within three years from the date on which such*
 3290 *taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the*
 3291 *Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the*
 3292 *collection of such taxes may be begun without assessment, at any time within six years from such date. The*
 3293 *Authority shall not examine any person's records beyond the three-year period of limitations unless it has*
 3294 *reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a*
 3295 *return and failed to do so.*

3296 *B. If any person fails to file a return as required by this section, or files a return that is false or*
 3297 *fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and*
 3298 *assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days'*
 3299 *notice requiring such person to provide any records as it may require relating to the business of such person*
 3300 *for the taxable period. The Authority may require such person or the agents and employees of such person to*
 3301 *give testimony or to answer interrogatories under oath administered by the Authority respecting taxable*
 3302 *sales, the filing of the return, and any other relevant information. If any person fails to file a required return,*
 3303 *refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority*
 3304 *may make an estimated assessment based upon the information available to it and issue a memorandum of*
 3305 *lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall*
 3306 *be deemed prima facie correct.*

3307 *C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay*
 3308 *within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority*
 3309 *may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's*
 3310 *place of business is located or in which the person resides. If the person has no place of business or residence*
 3311 *within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A*
 3312 *copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person*
 3313 *owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect*
 3314 *of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of*
 3315 *Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed.*
 3316 *The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which*
 3317 *the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more*
 3318 *days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the*
 3319 *collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the*
 3320 *provision of such notice, notification may be provided to the person concurrent with the filing of the*
 3321 *memorandum of lien. Such notice shall be given to the person at his last known address.*

3322 *2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal*
 3323 *under § 4.1-1009.*

3324 *3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the*
 3325 *Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or*
 3326 *paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the*
 3327 *doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory*
 3328 *arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It*
 3329 *shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the*
 3330 *Authority. In the event that the person against whom the distraint has been applied subsequently appeals*
 3331 *under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of*
 3332 *payment until the appeal is resolved.*

3333 *4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if*
 3334 *the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition*
 3335 *within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release*
 3336 *of the lien within seven days after such determination is made.*

3337 **§ 4.1-1009. Appeals.**

3338 *Any person aggrieved by a refusal of the Board to issue any license or permit, the suspension or*
 3339 *revocation of a license or permit, the imposition of a fine, or any other penalty may seek review of such*
 3340 *action in accordance with Board regulations and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process*
 3341 *Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5*
 3342 *(§ 2.2-4025 et seq.) of the Administrative Process Act.*

3343 **§ 4.1-1010. Injunction.**

3344 *The Authority may apply to the appropriate circuit court for an injunction against any person who has*
 3345 *violated or may violate any provision of this chapter or any regulation or final decision of the Board. The*
 3346 *order granting or refusing such injunction shall be subject to appeal as in other cases in equity.*

3347 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or**
 3348 **older lawful; penalties.**

3349 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person
 3350 21 years of age or older may lawfully possess on his person or in any public place not more than ~~one ounce~~
 3351 *two and one-half ounces* of marijuana or an equivalent amount of marijuana product as determined by
 3352 regulation promulgated by the Board.

3353 B. Any person who possesses on his person or in any public place marijuana or marijuana products in
 3354 excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except as
 3355 otherwise provided in this section. The penalty for any violations of this section by an adult shall be
 3356 prepayable according to the procedures in § 16.1-69.40:2.

3357 C. With the exception of possession by a person in his residence or possession by a licensee in the course
 3358 of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in
 3359 any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount
 3360 of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3
 3361 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound
 3362 of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the
 3363 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10
 3364 years and a fine of not more than \$250,000, or both.

3365 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
 3366 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of
 3367 dogs trained in the detection of controlled substances when possession of marijuana is necessary for the
 3368 performance of their duties.

3369 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

3370 A. ~~Notwithstanding the provisions of subdivision (c) of § 18.2-248.1,~~ a person 21 years of age or older
 3371 may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point
 3372 shall a household contain more than four marijuana plants. For purposes of this section, a "household" means
 3373 those individuals, whether related or not, who live in the same house or other place of residence.

3374 A person may only cultivate marijuana plants pursuant to this section at such person's main place of
 3375 residence.

3376 A violation of this subsection shall be punishable as follows:

3377 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil
 3378 penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2
 3379 misdemeanor for a third and any subsequent offense;

3380 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3381 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

3382 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of
 3383 not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

3384 B. A person who cultivates marijuana for personal use pursuant to this section shall:

3385 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or
 3386 other optical aids;

3387 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3388 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
 3389 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
 3390 under this section.

3391 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The penalty for
 3392 any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

3393 ~~C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a~~
 3394 ~~property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture~~
 3395 ~~marijuana concentrate from home-cultivated marijuana within or on that property or land.~~

3396 **§ 4.1-1102. Illegal cultivation or processing of marijuana or marijuana products; conspiracy; penalties.**

3397 A. *Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or process*
 3398 *marijuana or marijuana products in the Commonwealth without being licensed to cultivate or process such*
 3399 *marijuana or marijuana products.*

3400 B. *Any person convicted of a violation of this section is guilty of a Class 6 felony.*

3401 C. *If two or more persons conspire together to do any act that is in violation of subsection A, and one or*
 3402 *more of such persons does any act to effect the object of the conspiracy, each of the parties to such*
 3403 *conspiracy is guilty of a Class 6 felony.*

3404 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

3405 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who
 3406 are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)
 3407 marijuana is given away contemporaneously with another reciprocal transaction between the same parties;
 3408 (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services;
 3409 or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

3410 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give, or
 3411 distribute any marijuana or marijuana products except as permitted by this chapter or provided in subsection
 3412 C, he is guilty of (i) a Class 2 misdemeanor for a first offense; (ii) a Class 1 misdemeanor for a second
 3413 offense; and (iii) a Class 6 felony for a third and any subsequent offense.

3414 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not
 3415 exceed two and one-half ounces or of an equivalent amount of marijuana products.

3416 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;**
 3417 **penalties.**

3418 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give, or
 3419 distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or
 3420 has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii)
 3421 intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3422 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any
 3423 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the
 3424 sale does not require the individual to present bona fide evidence of legal age indicating that the individual is
 3425 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to
 3426 any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the
 3427 United States or the District of Columbia, military identification card, United States passport or foreign
 3428 government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any
 3429 other valid government-issued identification card bearing the individual's photograph, signature, height,
 3430 weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of
 3431 the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes
 3432 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

3433 C. No person shall be convicted of both subsections A and B for the same sale.

3434 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
 3435 **exceptions; penalties; forfeiture; treatment and education programs and services.**

3436 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104 shall
 3437 consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana
 3438 products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his
 3439 agent when possession of marijuana or marijuana products is necessary in the performance of his duties.
 3440 Such person may be prosecuted either in the county or city in which the marijuana or marijuana products
 3441 were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia
 3442 of consumption of marijuana or marijuana products.

3443 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more
 3444 than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if
 3445 available, that in the opinion of the court best suits the needs of the accused.

3446 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates
 3447 subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter
 3448 a substance abuse treatment or education program or both, if available, that in the opinion of the court best
 3449 suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and
 3450 16.1-278.9, the court shall treat the juvenile as delinquent.

3451 D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to
 3452 this section shall be provided by (i) a program licensed by the Department of Behavioral Health and
 3453 Developmental Services or (ii) a similar program available through a facility or program operated by or
 3454 under contract with the Department of Juvenile Justice or a locally operated court services unit or a program
 3455 funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such
 3456 substance abuse treatment or education program to which a person 18 years of age or older is ordered
 3457 pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health
 3458 and Developmental Services or (b) a program or services made available through a community-based
 3459 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one
 3460 has been established for the locality. When an offender is ordered to a local community-based probation
 3461 services agency, the local community-based probation services agency shall be responsible for providing for
 3462 services or referring the offender to education or treatment services as a condition of probation.

3463 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
 3464 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of
 3465 age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor
 3466 vehicle; (ii) altered, fictitious, facsimile, or simulated document, including a birth certificate or student

3467 identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3
 3468 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student
 3469 identification card of another person in order to establish a false identification or false age for himself to
 3470 consume, purchase, or attempt to consume or purchase marijuana or marijuana products. Any person
 3471 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3472 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
 3473 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

3474 G. Any retail marijuana store or microbusiness licensee who in good faith promptly notifies the Board or
 3475 any state or local law-enforcement agency of a violation or suspected violation of this section shall be
 3476 accorded immunity from an administrative penalty for a violation of § 4.1-1104.

3477 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be sold;**
 3478 **penalties; forfeiture.**

3479 A. Any person who purchases marijuana or marijuana products for another person and at the time of such
 3480 purchase knows or has reason to believe that the person for whom the marijuana or marijuana products were
 3481 purchased was intoxicated is guilty of a Class 1 misdemeanor.

3482 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of marijuana or
 3483 marijuana products to, another person when he knows or has reason to know that such person is younger
 3484 than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of
 3485 marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1
 3486 misdemeanor.

3487 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
 3488 contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

3489 **§ 4.1-1106.I. Selling, etc. without decal; false decal; civil penalty.**

3490 A. No person shall engage in the sale of marijuana or marijuana products or marketing or labeling
 3491 products as marijuana or marijuana products without a decal issued by the Board and prominently
 3492 displayed. A person violating this subsection is subject to a civil penalty of \$10,000 per day for each day that
 3493 such decal is not displayed in violation of this requirement.

3494 B. It is unlawful for any person to create or display a falsified decal that purports such person to be
 3495 licensed by the Board to engage in the sale of marijuana or marijuana products or market or label products
 3496 as marijuana or marijuana products. Any person who violates this subsection is subject to a civil penalty of
 3497 \$10,000 for each falsified decal such person created or \$10,000 per day for each day that such falsified decal
 3498 is displayed, or both.

3499 **§ 4.1-1113. Maintaining common nuisances; penalties.**

3500 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every
 3501 description where marijuana or marijuana products are manufactured, processed, stored, sold, dispensed,
 3502 given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common
 3503 nuisances.

3504 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
 3505 nuisance.

3506 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3507 B. In addition, after due notice and an opportunity to be heard on the part of any owner or lessor not
 3508 involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof of
 3509 guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or
 3510 any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of
 3511 not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be
 3512 used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the
 3513 same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1300.

3514 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
 3515 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had
 3516 the right, because of such unlawful use, to enter and repossess the property.

3517 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

3518 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 3519 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its
 3520 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-
 3521 enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
 3522 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a
 3523 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
 3524 felony.

3525 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

3526 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any
 3527 agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any
 3528 hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold

3529 *and conduct such hearing.*

3530 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3531 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

3532 *No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional*
 3533 *correctional facility or any person committed to the Department of Juvenile Justice in any juvenile*
 3534 *correctional center any marijuana or marijuana products.*

3535 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3536 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

3537 *A. No person shall separate plant resin by butane extraction or another method that utilizes a substance*
 3538 *with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of*
 3539 *any residential structure.*

3540 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3541 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

3542 *No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in*
 3543 *doing, or attempting to do, any of the things prohibited by this subtitle.*

3544 *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find*
 3545 *the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the*
 3546 *defendant were solely guilty of such violation.*

3547 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

3548 *Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in the case*
 3549 *of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded*
 3550 *against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under this subtitle*
 3551 *that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is*
 3552 *observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in*
 3553 *a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to*
 3554 *§ 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender*
 3555 *Assessment and Treatment Fund established pursuant to § 18.2-251.02.*

CHAPTER 12.

PROHIBITED PRACTICES BY LICENSEES.

3556 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

3557 *A. No licensee or any agent or employee of such licensee shall:*

3558 *1. Cultivate, process, transport, sell, or test any marijuana or marijuana products other than that which*
 3559 *such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;*

3560 *2. Sell marijuana or marijuana products to any person other than a person to whom such license or this*
 3561 *subtitle authorizes him to sell;*

3562 *3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or this*
 3563 *subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle*
 3564 *authorizes him to cultivate, process, transport, sell, or test;*

3565 *4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this*
 3566 *subtitle;*

3567 *5. Keep or allow to be kept on the licensed premises any marijuana or marijuana products other than that*
 3568 *which he is authorized to cultivate, process, transport, sell, or test by such license or by this subtitle;*

3569 *6. Keep any marijuana or marijuana product other than in the container in which it was purchased by*
 3570 *him; or*

3571 *7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.*

3572 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3573 **§ 4.1-1201. Prohibited acts by employees of licensees; civil penalty.**

3574 *A. In addition to the provisions of § 4.1-1200, no licensee, or his agent or employee shall use or consume*
 3575 *any marijuana or marijuana products (i) on the licensed premises, except for certain sampling for quality*
 3576 *control purposes in accordance with Board regulations or (ii) while on duty and in a position that is involved*
 3577 *in the selling of marijuana or marijuana products to consumers.*

3578 *B. No licensee or his agent or employee shall make any gift of any marijuana or marijuana products.*

3579 *C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to*
 3580 *exceed \$500. Upon a second or subsequent violation of this section, (i) if the person convicted is licensee, the*
 3581 *Board shall revoke any license held by the licensee and (ii) if the person convicted is an agent of the licensee*
 3582 *or employee, the Board shall require the licensee to terminate such agent or employee's employment. Any*
 3583 *such licensee, agent, or employee convicted of a second or subsequent violation of this section shall be*
 3584 *prohibited from obtaining any marijuana establishment license and employment at a marijuana*
 3585 *establishment.*

3586 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a**
 3587 **license; penalty.**

3588 *Except as otherwise provided in § 4.1-807, no retail marijuana store licensee shall purchase for resale or*
 3589
 3590

3591 *sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from*
 3592 *anyone other than a marijuana cultivation facility or marijuana processing facility.*

3593 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3594 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by certain licensees; penalty.**

3595 *A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one*
 3596 *licensed place of business to another licensed place of business unless (i) such licensed marijuana*
 3597 *establishment is authorized to transfer marijuana or marijuana products from one licensed place of business*
 3598 *to another licensed place of business and the transfer is completed by the licensee or an employee of the*
 3599 *licensee or (ii) such transfer is completed by a marijuana transporter licensee.*

3600 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

3601 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

3602 *No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any*
 3603 *licensee selling, renting, lending, buying for, or giving to any person any advertising materials or*
 3604 *decorations under circumstances prohibited by this title or Board regulations.*

3605 *Any person found by the Board to have violated this section shall be subject to a civil penalty as*
 3606 *authorized in § 4.1-903.*

3607 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to**
 3608 **allow examination and inspection; penalty.**

3609 *A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1004; (ii) deliver, keep, and*
 3610 *preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)*
 3611 *allow such records, invoices, and accounts or his place of business to be examined and inspected in*
 3612 *accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1*
 3613 *misdemeanor.*

3614 *B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may*
 3615 *suspend or revoke any license of such licensee that was issued by the Authority.*

3616 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

3617 *A. No person shall make a sale taxable under § 4.1-1004 without paying all applicable taxes due. No*
 3618 *retail marijuana store or microbusiness licensee shall purchase, receive, transport, store, or sell any*
 3619 *marijuana or marijuana products on which such retailer has reason to know such tax has not been paid and*
 3620 *may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3621 *B. Any person who fails to file a return required for a tax due under § 4.1-1004 is subject to a civil*
 3622 *penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more*
 3623 *than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which*
 3624 *the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.*

3625 *C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of*
 3626 *any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the amount of the proper tax*
 3627 *due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall*
 3628 *be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable*
 3629 *sales to the Authority at 50 percent or less of the actual amount.*

3630 *D. If any check tendered for any amount due under § 4.1-1004 or this section is not paid by the bank on*
 3631 *which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five*
 3632 *days after the Authority gives it notice that such check was returned unpaid, the person that tendered the*
 3633 *check is guilty of a violation of § 18.2-182.1.*

3634 *E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner*
 3635 *as if they were a part of the tax imposed.*

3636 **§ 4.1-1300. Enjoining nuisances.**

3637 *A. In addition to the penalties imposed by § 4.1-1113, the Board, its agents, the attorney for the*
 3638 *Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113*
 3639 *exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.*

3640 *B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge*
 3641 *or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products*
 3642 *are cultivated, processed, stored, sold, dispensed, given away, or used in such house, building, or other place*
 3643 *described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as*
 3644 *the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their*
 3645 *agents and employees, and any person connected with such house, building, or other place, and all persons*
 3646 *whomsoever from cultivating, processing, storing, selling, dispensing, giving away, or using marijuana or*
 3647 *marijuana products on such premises. The injunction shall also restrain all persons from removing any*
 3648 *marijuana or marijuana products then on such premises until the further order of the court. If the court is*
 3649 *satisfied that the material allegations of the bill are true, although the premises complained of may not then*
 3650 *be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems*
 3651 *proper. The injunction may be dissolved if a proper case is shown for dissolution.*

3652 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

3653 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products, all
3654 marijuana or marijuana products and materials used in their manufacture or processing, and all containers
3655 in which marijuana or marijuana products may be found that are kept, stored, possessed, or in any manner
3656 used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308
3657 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid
3658 such person in the unlawful cultivation, manufacture, processing, transportation, or sale of marijuana or
3659 marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden
3660 or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity
3661 of any place where marijuana or marijuana products are being unlawfully manufactured or processed and
3662 where such animal or vehicle is being used to aid in the unlawful manufacture or processing, shall be deemed
3663 contraband and shall be forfeited to the Commonwealth.

3664 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1303
3665 for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1
3666 (§ 19.2-386.1 et seq.) of Title 19.2.

3667 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

3668 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
3669 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

3670 B. Whenever any article declared contraband under the provisions of this subtitle and required to be
3671 forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the
3672 enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it
3673 was found. In those cases where no person is found in possession of such articles, the return shall so state
3674 and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found,
3675 or if there is no door, then in any conspicuous place upon the premises.

3676 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove
3677 such item to a place of safe storage from the place where seized, the seizing officer may destroy such item
3678 only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least
3679 one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction
3680 to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for
3681 seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining
3682 after such destruction. The report shall include a statement that, from facts within their own knowledge, the
3683 seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the
3684 unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such
3685 apparatus to a place of safe storage.

3686 In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture
3687 of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose
3688 of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other
3689 violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such
3690 witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The
3691 report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a
3692 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever
3693 that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or
3694 manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

3695 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10
3696 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such
3697 return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept,
3698 stored, or possessed in violation of this subtitle.

3699 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
3700 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
3701 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
3702 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
3703 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
3704 determine the validity of such claim.

3705 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be
3706 turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a
3707 bar to any prosecution under any other provision of this subtitle.

3708 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this
3709 section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be
3710 paid into the Literary Fund.

3711 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in
3712 accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be
3713 impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the
3714 local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be

3715 *made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and*
 3716 *shall be kept in the offices of the Board.*

3717 **§ 4.1-1304. Contraband marijuana or marijuana products.**

3718 *Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the*
 3719 *Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when*
 3720 *other Board regulations applicable to such transportation have been complied with shall not be cause for*
 3721 *deeming such marijuana or marijuana products contraband.*

3722 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

3723 *A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to*
 3724 *the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating*
 3725 *any Board regulation is guilty of a Class 1 misdemeanor.*

3726 *B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is*
 3727 *convicted of a violation of any provision of this subtitle may require such defendant to execute bond based*
 3728 *upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that*
 3729 *the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is*
 3730 *required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged*
 3731 *by the court, provided that he shall not be confined for a period longer than six months. If any such bond*
 3732 *required by a court is not given during the term of the court by which conviction is had, it may be given*
 3733 *before any judge or before the clerk of such court.*

3734 *C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to*
 3735 *continue the license of any person convicted of a violation of any provision of this subtitle.*

3736 *D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant*
 3737 *has been notified that such a case is pending.*

3738 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

3739 *No person shall be excused from testifying or from producing books, papers, correspondence,*
 3740 *memoranda, or other records for the Commonwealth as to any offense alleged to have been committed by*
 3741 *another under this subtitle by reason of his testimony or other evidence tending to incriminate himself, but*
 3742 *the testimony given and evidence so produced by such person on behalf of the Commonwealth when called*
 3743 *for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned*
 3744 *by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall*
 3745 *be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies.*

3746 **§ 4.1-1307. Previous convictions.**

3747 *In any indictment, information, or warrant charging any person with a violation of any provision of this*
 3748 *subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such*
 3749 *person has been previously convicted of a violation of this subtitle.*

3750 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

3751 *In any prosecution for violations of this subtitle, where a sealed container is labeled as containing*
 3752 *marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the*
 3753 *container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana*
 3754 *content of a container, whether sealed or not.*

3755 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

3756 *No action to recover the price of any marijuana or marijuana products sold in contravention of this*
 3757 *subtitle may be maintained.*

3758 **§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.**

3759 *A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a*
 3760 *synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500*
 3761 *linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign*
 3762 *face upon which the advertisement is placed to the nearest edge of a building or structure located on the real*
 3763 *property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or*
 3764 *parochial school or an institution of higher education; (iii) a public or private playground or similar*
 3765 *recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.*

3766 *B. However, (i) if there is no building or structure on a playground or similar recreational facility, the*
 3767 *measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the*
 3768 *property line of such playground or similar recreational facility and (ii) if a public or private school providing*
 3769 *grades K through 12 education is located across the road from a sign, the measurement shall be from the*
 3770 *nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or*
 3771 *structure located on such real property across the road.*

3772 *C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a*
 3773 *church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or*
 3774 *an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a*
 3775 *substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances*
 3776 *change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the*

3777 advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in
 3778 no event more than one year from the date of the change in circumstances.

3779 D. The Board may grant a permit authorizing a variance from the distance requirements of this section
 3780 upon a finding that the placement of the advertisement on a sign will not unduly expose children to
 3781 advertising regarding marijuana, marijuana products, or any substance containing a synthetic
 3782 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

3783 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included
 3784 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its
 3785 agents.

3786 F. *Any outdoor signs placed on the property of a marijuana establishment shall not (i) display imagery of*
 3787 *marijuana or the use of marijuana or (ii) draw undue attention to the facility, but may be designed to assist*
 3788 *consumers to find the marijuana establishment.*

3789 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising
 3790 regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or
 3791 synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned
 3792 property. Nor shall this section be construed to authorize the erection of new billboard signs containing
 3793 outdoor advertising that would be prohibited under state law or local ordinance.

3794 ~~G.~~ H. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance
 3795 containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with
 3796 the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and
 3797 regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor
 3798 directional sign regarding marijuana, marijuana products, or any substance containing a synthetic
 3799 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on
 3800 highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program
 3801 administered by the Virginia Department of Transportation or its agents.

3802 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

3803 *The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise*
 3804 *provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling*
 3805 *or distributing marijuana or a marijuana product to a consumer or to another licensee, to submit a*
 3806 *representative sample of the marijuana or marijuana product, not to exceed an amount of the total harvest or*
 3807 *batch as established by the Board, to a licensed marijuana testing facility for testing to ensure that the*
 3808 *marijuana or marijuana product does not exceed the maximum level of allowable contamination for any*
 3809 *contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The*
 3810 *Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing*
 3811 *acceptable testing and research practices, including regulations relating to testing practices, methods, and*
 3812 *standards; quality control analysis; equipment certification and calibration; marijuana testing facility*
 3813 *recordkeeping, documentation, and business practices; disposal of used, unused, and waste marijuana and*
 3814 *marijuana products; and reporting of test results; (iii) identifying the types of contaminants that are injurious*
 3815 *to health for which marijuana and marijuana products shall be tested under this subtitle; and (iv)*
 3816 *establishing the maximum level of allowable contamination for each contaminant.*

3817 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**
 3818 **required destruction; random testing.**

3819 A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another
 3820 licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been
 3821 tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing
 3822 has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of
 3823 allowable contamination for any contaminant that is injurious to health and for which testing is required and
 3824 (ii) the labeling on the marijuana or marijuana product is correct.

3825 B. Mandatory testing of marijuana and marijuana products under this section shall include testing for:

- 3826 1. Residual solvents, except such testing shall not be required for testing of botanical marijuana;
- 3827 2. Heavy metals;
- 3828 3. Microbiological contaminants;
- 3829 4. Mycotoxins;
- 3830 5. Pesticide chemical residue; and
- 3831 6. Active ingredient analysis.

3832 *Testing shall be performed on the final form in which the marijuana or marijuana product will be*
 3833 *consumed.*

3834 C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana
 3835 or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility,
 3836 and the results of the mandatory test.

3837 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested marijuana
 3838 or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or contamination for

3839 any contaminant that is injurious to health and for which testing is required, the marijuana testing facility
 3840 shall immediately quarantine, document, and properly destroy the marijuana or marijuana product, unless
 3841 remedial measures can bring the marijuana or marijuana product into compliance with such required health
 3842 and safety standards, and within seven days of completing the test shall notify the Board of the test results.

3843 A marijuana testing facility is not required to notify the Board of the results of any test:

3844 1. Conducted on marijuana or a marijuana product at the direction of a licensee for research and
 3845 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the
 3846 performance of the test that the testing is for research and development purposes only; or

3847 2. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.

3848 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee
 3849 marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this
 3850 subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

3851 1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle
 3852 and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing
 3853 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable
 3854 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing
 3855 is required;

3856 2. The mandatory testing process and the test results for the marijuana or marijuana product are
 3857 documented in accordance with the requirements of this subtitle and all applicable regulations adopted
 3858 pursuant to this subtitle;

3859 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
 3860 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or
 3861 to a consumer can be easily identified; and

3862 4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or
 3863 alteration subsequent to the performance of the prior testing under subsection A.

3864 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana
 3865 products whose testing samples indicate noncompliance with the health and safety standards required by this
 3866 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can
 3867 bring the marijuana or marijuana product into compliance with such required health and safety standards.

3868 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for the
 3869 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

3870 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

3871 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be
 3872 labeled with the following information:

3873 1. Identification of the type of marijuana or marijuana product;

3874 2. Identification of the marijuana cultivation facility and marijuana processing facility where the
 3875 marijuana or marijuana product was cultivated and processed, as applicable;

3876 3. A statement of the net weight of the marijuana or marijuana product;

3877 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients; (ii)
 3878 tetrahydrocannabinol, cannabidiol, and other cannabinoid content; (iii) any allergens required by the Board;
 3879 (iii) the amount of servings in the package; and (iv) the total milligrams of tetrahydrocannabinol and
 3880 cannabidiol included in an edible marijuana product or topical marijuana product, the number of milligrams
 3881 of tetrahydrocannabinol and cannabidiol in each serving of an edible marijuana product or topical
 3882 marijuana product, and the total percentage of tetrahydrocannabinol and cannabidiol included in an
 3883 inhalable marijuana product, in accordance with Board regulations;

3884 5. Instructions on usage, including information regarding the amount of marijuana or marijuana product
 3885 that constitutes a single serving, and information regarding the products purpose, as applicable;

3886 6. An expiration date;

3887 7. For marijuana and marijuana products, a warning statement adopted by the Board prominently
 3888 displayed in bold print and in a clear and legible fashion;

3889 8. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;

3890 9. A QR code or other means prescribed by the Board, linking to the certificate of analysis, produced by a
 3891 licensed marijuana testing facility, that states the total tetrahydrocannabinol concentration of the substance
 3892 or the total tetrahydrocannabinol concentration of the batch from which the substance originates; and

3893 10. Any other information required by Board regulations.

3894 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
 3895 accordance with the provisions of this subtitle shall be packaged in the following manner:

3896 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and
 3897 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-
 3898 resistant, tamper-evident, and resealable packaging that is opaque;

3899 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
 3900 component; and

- 3901 3. Packaging shall comply with any other requirements imposed by Board regulations.
- 3902 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
- 3903 accordance with the provisions of this subtitle shall not:
- 3904 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be
- 3905 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying
- 3906 mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a
- 3907 product intended for human consumption other than the manufacturer, processor, packer, or distributor that
- 3908 did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or
- 3909 labeled in violation of a federal trademark law or regulation;
- 3910 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;
- 3911 3. Be labeled or packaged in a manner that obscures identifying information on the label;
- 3912 4. Be labeled or packaged using a false or misleading label;
- 3913 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a human,
- 3914 animal, vehicle, or fruit; and
- 3915 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board
- 3916 regulations.
- 3917 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other marijuana**
- 3918 **products deemed applicable by the Authority; health and safety regulations.**
- 3919 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
- 3920 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a
- 3921 consumer:
- 3922 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;
- 3923 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;
- 3924 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within the
- 3925 product being homogeneous throughout the product or throughout each element of the product that has a
- 3926 cannabinoid content;
- 3927 4. Shall be processed and manufactured in a manner that results in the amount of marijuana concentrate
- 3928 within the product being homogeneous throughout the product or throughout each element of the product
- 3929 that contains marijuana concentrate;
- 3930 5. Shall have a universal symbol stamped or embossed on the packaging of each product;
- 3931 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and shall
- 3932 not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;
- 3933 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed
- 3934 to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v)
- 3935 are specifically designed to make the product appeal particularly to persons younger than 21 years of age;
- 3936 and
- 3937 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the
- 3938 trademarked product is used as a component of or ingredient in the edible marijuana product and the edible
- 3939 marijuana product is not advertised or described for sale as containing the trademarked product.
- 3940 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it
- 3941 deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee to a
- 3942 consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish
- 3943 mandatory health and safety standards applicable to the cultivation of marijuana, the processing and
- 3944 manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana products
- 3945 sold by a licensee to a consumer. Such regulations shall address:
- 3946 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana products
- 3947 by licensees;
- 3948 2. Standards for the processing and manufacture of marijuana and marijuana products; and
- 3949 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores and
- 3950 microbusinesses.
- 3951 **§ 4.1-1407. Product registration requirements; approval, deviation, and modification.**
- 3952 A. A marijuana cultivation facility licensee, marijuana processing facility licensee, and microbusiness
- 3953 licensee shall register with the Board all marijuana or marijuana products it cultivates or processes.
- 3954 Applications for marijuana or marijuana product registration shall be submitted to the Board on a form
- 3955 prescribed by the Board.
- 3956 B. An application for marijuana or marijuana product registration shall include:
- 3957 1. The total tetrahydrocannabinol and total cannabidiol in such marijuana or marijuana product, based
- 3958 on laboratory testing results for the marijuana or marijuana product formulation;
- 3959 2. A product name;
- 3960 3. A proposed product package; and
- 3961 4. A proposed product label, which shall not be required to contain an expiration date at the time of
- 3962 application.

3963 C. The Board shall register all marijuana or marijuana products that meet labeling and packaging
 3964 standards established by regulation after an application for registration is submitted and the Board receives
 3965 the applicable registration fee. If the marijuana or marijuana product fails to meet such standards or the
 3966 application was deficient, the Board shall notify the applicant of the specific reasons for such failure or
 3967 deficiency.

3968 D. The following marijuana or marijuana product deviations from an approved marijuana or marijuana
 3969 product registration shall be permitted without any requirement for a new marijuana or marijuana product
 3970 registration or notice to the Board:

3971 1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a
 3972 marijuana or marijuana product or dose thereof of up to 15 percent greater than or less than the
 3973 concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved
 3974 marijuana or marijuana product registration; however, for marijuana or a marijuana product with five
 3975 milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be
 3976 within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that marijuana
 3977 or marijuana product;

3978 2. A variation in packaging, provided that the packaging is substantially similar to the approved
 3979 packaging and otherwise complies with applicable packaging requirements;

3980 3. A deviation in labeling that reflects allowable deviations in total THC or total CBD or that makes a
 3981 minor text, font, design, or similar modification, provided that the labeling is substantially similar to the
 3982 approved labeling and otherwise complies with applicable labeling requirements; and

3983 4. Any other insignificant changes.

3984 E. A marijuana cultivation facility licensee, marijuana processing facility licensee, or microbusiness
 3985 license may submit a request to modify an existing marijuana or marijuana product registration in the event
 3986 of a marijuana or marijuana product deviation that is not set forth in subsection D. Upon receipt, the Board
 3987 shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or
 3988 require the licensee to provide additional information.

3989 **§ 4.1-1500. Definitions.**

3990 As used in this chapter, unless the context requires a different meaning:

3991 "CDFI" means a community development financial institution that provides credit and financial services
 3992 for underserved communities.

3993 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

3994 "Funding" means loans and grants made from the Fund.

3995 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

3996 "~~Social equity qualified cannabis licensee~~" means a person or business who meets the criteria in § 4.1-606
 3997 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined
 3998 by the Board, a license to operate a marijuana establishment.

3999 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

4000 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
 4001 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established
 4002 on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,
 4003 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.
 4004 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining
 4005 in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but
 4006 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing grants,
 4007 low-interest and loans, zero-interest loans, conditional loans, and other supports and services to social equity
 4008 qualified cannabis impact licensees in order to foster business ownership and economic growth within
 4009 communities that have been the most disproportionately impacted by the former prohibition of cannabis.
 4010 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by
 4011 the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

4012 **§ 4.1-1502. Program requirements; guidelines for management of the Fund; selection of CDFI.**

4013 A. The Authority shall establish a Program to provide loans, grants, and other supports and services to
 4014 qualified social equity cannabis impact licensees for the purpose of promoting business ownership and
 4015 economic growth by communities that have been disproportionately impacted by the prohibition of cannabis.
 4016 ~~The~~ For the purposes of issuing loans, the Authority shall may select and work in collaboration with a CDFI
 4017 to assist in administering the Program and carrying out the purposes of the Fund. ~~The~~ If the Authority utilizes
 4018 a CDFI for issuing loans, the CDFI selected by the Authority shall have (i) a statewide presence in Virginia,
 4019 (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities,
 4020 and (iv) the capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI,
 4021 the Authority shall establish monitoring and accountability mechanisms for businesses impact licensees
 4022 receiving funding and shall report annually the number of businesses funded; the geographic distribution of
 4023 the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

4024 B. The Program shall:

4025 1. Identify ~~social equity qualified cannabis~~ *impact* licensees who are in need of capital *or other supports*
 4026 *and services* for the start-up of a cannabis business properly licensed pursuant to the provisions of this
 4027 subtitle;

4028 2. Provide loans, *grants, and other supports and services* for the purposes described in subsection A *and*
 4029 *§ 4.1-1501*;

4030 3. Provide technical assistance; and

4031 4. Bring together community partners to sustain the Program.

4032 **§ 4.1-1600. Definitions.**

4033 As used in this chapter, unless the context requires a different meaning:

4034 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of
 4035 the same chemovar of cannabis plant.

4036 "Cannabis dispensing facility" means a *dual-use* facility that (i) has obtained a permit from the Board
 4037 pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; ~~and~~ (iii) dispenses
 4038 cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient
 4039 is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; *and (iv) has*
 4040 *been verified by the Board pursuant to § 4.1-1602.1 to hold and exercise all privileges to operate as a retail*
 4041 *marijuana store pursuant to § 4.1-802 on the premises of the cannabis dispensing facility.*

4042 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial
 4043 hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to
 4044 § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this
 4045 chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include
 4046 industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or
 4047 federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp
 4048 processor and acquired and formulated by a pharmaceutical processor.

4049 "Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is
 4050 produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing
 4051 facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more
 4052 than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

4053 "*Delivery agent*" means an independent contractor that transports or delivers usable cannabis, botanical
 4054 cannabis, cannabis oil, or cannabis products on behalf of a pharmaceutical processor or cannabis
 4055 dispensing facility.

4056 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or
 4057 home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health
 4058 services, private provider licensed by the Department of Behavioral Health and Developmental Services
 4059 pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant
 4060 to § 63.2-1701, or adult day center licensed pursuant to § 63.2-1701.

4061 "Dispense" means the same as that term is defined in § 54.1-3300.

4062 "Pharmaceutical processor" means a *dual-use* facility that (i) has obtained a permit from the Board
 4063 pursuant to § 4.1-1602 ~~and~~; (ii) cultivates Cannabis plants intended ~~only~~ for the production of cannabis oil,
 4064 botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a
 4065 patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable
 4066 adult as defined in § 18.2-369, such patient's parent or legal guardian; *and (iii) has been verified by the Board*
 4067 *pursuant to § 4.1-1602.1 to hold and exercise all privileges to operate as a marijuana cultivation facility*
 4068 *pursuant to § 4.1-800, marijuana processing facility pursuant to § 4.1-801, and retail marijuana store*
 4069 *pursuant to § 4.1-802.*

4070 "Pharmacist" means the same as that term is defined in § 54.1-3300.

4071 "Pharmacy intern" means the same as that term is defined in § 54.1-3300.

4072 "Pharmacy technician" means the same as that term is defined in § 54.1-3300.

4073 "Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

4074 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a
 4075 physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse jointly
 4076 licensed by the Boards of Nursing and Medicine.

4077 "Registered agent" means an individual designated by a patient who has been issued a written
 4078 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such
 4079 patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

4080 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been
 4081 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from
 4082 the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks;
 4083 or (iii) oil or cake made from the seeds of the plant.

4084 **§ 4.1-1601. Certification for use of cannabis for treatment.**

4085 A. A practitioner in the course of his professional practice may issue a written certification for the use of
 4086 cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease

4087 determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment
 4088 to determine the manner and frequency of patient care and evaluation and may employ the use of
 4089 telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time
 4090 interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is
 4091 on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor
 4092 shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines
 4093 it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification
 4094 shall specifically authorize such dispensing. If not specifically included on the initial written certification,
 4095 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the
 4096 time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept,
 4097 solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any
 4098 person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia,
 4099 excluding information on products or educational materials on the benefits and risks of cannabis products.

4100 B. The written certification shall be on a form provided by the Authority. Such written certification shall
 4101 contain the name, address, and telephone number of the practitioner, the name and address of the patient
 4102 issued the written certification, the date on which the written certification was made, and the signature or
 4103 authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A
 4104 shall expire one year after its issuance unless the practitioner provides in such written certification an earlier
 4105 expiration. A written certification shall not be issued to a patient by more than one practitioner during any
 4106 given time period.

4107 C. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.)* or § 18.2-248 ~~or 18.2-248.1~~
 4108 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the
 4109 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to
 4110 subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from
 4111 sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise
 4112 violating the applicable standard of care for evaluating or treating medical conditions.

4113 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold
 4114 sufficient education and training to exercise appropriate professional judgment in the certification of patients;
 4115 (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or
 4116 registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical
 4117 processor or cannabis product; (iii) shall not issue a certification to himself or his family members,
 4118 employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those
 4119 approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a
 4120 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to
 4121 whom a practitioner may issue a written certification. The Board may report information to the applicable
 4122 licensing board on unusual patterns of certifications issued by a practitioner.

4123 E. No patient shall be required to physically present the written certification after the initial dispensing by
 4124 any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that
 4125 the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written
 4126 certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a
 4127 monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing
 4128 facility to the Authority.

4129 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's
 4130 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of
 4131 receiving cannabis products pursuant to a valid written certification. Such designated individual shall register
 4132 with the Board unless the individual's name listed on the patient's written certification. An individual may, on
 4133 the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's
 4134 written certification upon the patient's request. The Board may set a limit on the number of patients for whom
 4135 any individual is authorized to act as a registered agent.

4136 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a
 4137 designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or
 4138 registered by a health regulatory board and who is authorized to possess, distribute, or administer medications
 4139 may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the
 4140 patient or resident and may assist in the administration of the cannabis product to the patient or resident as
 4141 necessary.

4142 H. Information obtained under the patient certification or agent registration process shall be confidential
 4143 and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700
 4144 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the
 4145 House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement
 4146 for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii)
 4147 licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug
 4148 therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or

4149 cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only
4150 with respect to information related to such patient.

4151 **§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

4152 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first
4153 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the
4154 Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's
4155 dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general
4156 requirements for such application. *Effective December 1, 2026, no previously issued permit shall remain*
4157 *valid unless the pharmaceutical processor has received dual-use verification from the Board pursuant to*
4158 *§ 4.1-1602.1.*

4159 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of
4160 permits that the Board may issue or renew in any year is limited to one *permit in each health service area*
4161 *established by the Board of Health, which shall govern the operations of the* pharmaceutical processor and up
4162 to five cannabis dispensing facilities ~~for~~ in each health service area established by the Board of Health.
4163 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and
4164 cannabis dispensing facility.

4165 C. The Board shall adopt regulations establishing health, safety, and security requirements for
4166 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for
4167 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment
4168 and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently
4169 than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis
4170 products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in
4171 § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide
4172 that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol,
4173 except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of
4174 usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors,
4175 between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing
4176 facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and
4177 hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the
4178 laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert
4179 product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical
4180 processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a
4181 written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into
4182 cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical
4183 processor's products and operations, which shall not limit the pharmaceutical processor from the provision of
4184 educational material to practitioners who issue written certifications and patients. The Board shall also adopt
4185 regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely
4186 cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste,
4187 and (c) a process for registering cannabis products.

4188 D. The Board shall require pharmaceutical processors, after processing and before dispensing any
4189 cannabis products, to make a sample available from each batch of cannabis product for testing by an
4190 independent laboratory that is located in *the* Commonwealth and meets Board requirements. ~~A valid sample~~
4191 ~~size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,~~
4192 ~~and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing~~
4193 ~~or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis~~
4194 ~~oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from~~
4195 ~~each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for~~
4196 ~~analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total~~
4197 ~~tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and~~
4198 ~~microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis~~
4199 ~~industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails~~
4200 ~~any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or~~
4201 ~~cannabis oil shall be subject to laboratory testing, which shall not be more stringent than initial testing prior~~
4202 ~~to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be~~
4203 ~~packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered~~
4204 ~~usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any~~
4205 ~~cannabis product with an expiration date assigned by the pharmaceutical processor of 12 months or less from~~
4206 ~~the date of the cannabis product registration approval. Stability testing required for assignment of an~~
4207 ~~expiration date longer than 12 months shall be limited to microbial testing, on a pass/fail basis, and potency~~
4208 ~~testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an~~
4209 ~~expiration date longer than 12 months from the date of the cannabis product registration approval unless~~
4210 ~~supported by stability testing. The provisions of § 4.1-1404 shall apply, mutatis mutandis, to the testing of all~~

4211 *cannabis products.*

4212 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
4213 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the
4214 Board of Pharmacy in regulation.

4215 F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the
4216 personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis
4217 dispensing facility unless all cannabis products are contained in a vault or other similar container to which
4218 only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are
4219 adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have
4220 concurrent responsibility for preventing diversion from the dispensing area.

4221 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and
4222 production areas of the pharmaceutical processor and shall provide such information to the Board. The Board
4223 shall direct all communications related to enforcement of requirements related to cultivation and production
4224 of cannabis and cannabis products by the pharmaceutical processor to such designated person.

4225 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis
4226 dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be
4227 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau
4228 of Investigation for the purpose of obtaining criminal history record information regarding the applicant's
4229 material owners. The cost of fingerprinting and the criminal history record search shall be paid by the
4230 applicant. The Central Criminal Records Exchange shall forward the results of the criminal history
4231 background check to the Board or its designee, which shall be a governmental entity.

4232 H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees
4233 and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery
4234 agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

4235 I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
4236 individuals who may have less than one year of experience (i) to perform cultivation-related duties under the
4237 supervision of an individual who has received a degree in a field related to the cultivation of plants or a
4238 certification recognized by the Board or who has at least one year of experience cultivating plants, (ii) to
4239 perform extraction-related duties under the supervision of an individual who has a degree in chemistry or
4240 pharmacology or at least one year of experience extracting chemicals from plants, (iii) to perform duties at
4241 the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician,
4242 and (iv) to serve as pharmacy technician trainees.

4243 J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five
4244 cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing
4245 of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor
4246 permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the
4247 pharmaceutical processor may cultivate cannabis plants. *Notwithstanding any other provision of law, a
4248 pharmaceutical processor shall cultivate cannabis only indoors, which may include a secure agricultural
4249 greenhouse, with a canopy that does not exceed 70,000 square feet in the aggregate across all cultivation
4250 conducted by the pharmaceutical processor, including cultivation authorized under this chapter and for
4251 purposes of a pharmaceutical processor's operations as a marijuana cultivation facility pursuant to
4252 § 4.1-800, regardless of whether such canopy is utilized on the premises of the pharmaceutical processor or
4253 collectively on the premises of the pharmaceutical processor and the additional cultivation location.* Each
4254 cannabis dispensing facility and the additional cultivation location shall be located within the same health
4255 service area as the pharmaceutical processor.

4256 K. No person who has been convicted of a felony under the laws of the Commonwealth or another
4257 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or
4258 cannabis dispensing facility.

4259 L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment
4260 drug screening and regular, ongoing, random drug screening of employees.

4261 M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility
4262 shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees
4263 who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than
4264 six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's
4265 dispensing area or cannabis dispensing facility.

4266 N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor
4267 industrial hemp extracts that (i) are grown and processed in Virginia in compliance with state or federal law,
4268 and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract"
4269 in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A
4270 pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis
4271 product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the
4272 same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by

4273 a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products.
 4274 The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical
 4275 processor before industrial hemp extracts may be acquired.

4276 O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily
 4277 discernable, and uniform among different products and brands. Pharmaceutical processors shall affix to all
 4278 cannabis products and botanical cannabis a label, which shall also be accessible on the pharmaceutical
 4279 processor's website, that includes:

4280 1. The product name;

4281 2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives,
 4282 flavorings, sweeteners, and carrier oils;

4283 3. The total percentage and milligrams of tetrahydrocannabinol and cannabidiol included in the product
 4284 and the number of milligrams of tetrahydrocannabinol and cannabidiol in each serving;

4285 4. The amount of product that constitutes a single serving and the amount recommended for use by the
 4286 practitioner or dispensing pharmacist;

4287 5. Information regarding the product's purpose and detailed usage directions;

4288 6. Child and safety warnings in a conspicuous font; and

4289 7. Such other information required by the Board.

4290 P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of
 4291 cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no
 4292 tetrahydrocannabinol.

4293 Q. P. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act
 4294 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of
 4295 any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board
 4296 shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action
 4297 on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of
 4298 the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone
 4299 number of the agency contact person responsible for receiving public comments. Such notice shall be made at
 4300 least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The
 4301 legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final
 4302 adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public
 4303 comments received for any regulation adopted pursuant to this section.

4304 **§ 4.1-1602.1. Dual-use privileges.**

4305 A. As used in this section, "interest" means a direct or indirect equity ownership interest, a partial equity
 4306 ownership interest, or any other financial or economic interest representing at least 10 percent or more of
 4307 the ownership, voting power, or economic value of an entity, including being an investor, partner, member,
 4308 officer, or director or serving in any other management position.

4309 B. Upon application to the Board, payment of a one-time conversion fee by a pharmaceutical processor,
 4310 and verification by the Board that the applicable requirements are met, a pharmaceutical processor and its
 4311 cannabis dispensing facilities may exercise dual-use privileges as set forth in this chapter.

4312 C. In addition to the provisions of this chapter, unless otherwise provided by law or regulation, a
 4313 pharmaceutical processor authorized to exercise dual-use privileges shall hold the privileges of and be
 4314 subject to all laws and regulations applicable to a marijuana cultivation facility, marijuana processing
 4315 facility, and retail marijuana store and a cannabis dispensing facility shall hold the privileges of and be
 4316 subject to all laws and regulations applicable to a retail marijuana store.

4317 D. Notwithstanding the provisions of subsection C or any other provisions of law, (i) the location
 4318 restrictions set forth in subdivision B 3 of § 4.1-810 shall not apply to any pharmaceutical processor or
 4319 cannabis dispensing facility authorized to exercise dual-use privileges and operating on July 1, 2026, and (ii)
 4320 the provisions of subdivision C 3 of § 4.1-606 shall not apply to any pharmaceutical processor or cannabis
 4321 dispensing facility authorized to exercise dual-use privileges and any such pharmaceutical processor or
 4322 cannabis dispensing facility may operate with a retail floor space exceeding 2,500 square feet if the premises
 4323 was approved by the Board prior to January 1, 2026, provided that the Board shall not approve any future
 4324 premises modifications that would increase such retail floor space from the square footage previously
 4325 approved.

4326 E. Notwithstanding any other provision of law, no person that has been granted or holds an interest in a
 4327 pharmaceutical processor permit pursuant to this chapter shall be issued or hold interest in any other
 4328 marijuana establishment license, except for the cannabis dispensing facility permits allowed pursuant to
 4329 § 4.1-1602.

4330 **§ 4.1-1603. Dispensing cannabis products; report.**

4331 A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products
 4332 only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued
 4333 a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a
 4334 vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or

4335 temporarily resides in Virginia. *A pharmaceutical processor or cannabis dispensing facility may dispense or*
 4336 *deliver cannabis products to such patient or such patient's registered agent, parent, or legal guardian at any*
 4337 *residence, including a temporary residence, or business. Notwithstanding the foregoing, a pharmaceutical*
 4338 *processor or cannabis dispensing facility shall not dispense or deliver cannabis products to (a) any military*
 4339 *base, child day center, school, or correctional facility; (b) the State Capitol; (c) marine terminal under the*
 4340 *supervision of the Virginia Port Authority; or (d) any public gathering places, including sporting events,*
 4341 *festivals, fairs, races, concerts, and terminals of public transportation companies. A companion may*
 4342 *accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior*
 4343 *to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy*
 4344 *technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and*
 4345 *maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written*
 4346 *certification that provides an exact image of the document that is clearly legible; shall view, in person or by*
 4347 *audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian;*
 4348 *and shall verify current board registration of the corresponding registered agent if applicable. Thereafter, an*
 4349 *initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated*
 4350 *caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written*
 4351 *certification, an employee or delivery agent shall view a current photo identification of the patient, registered*
 4352 *agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable.*
 4353 *No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as*
 4354 *determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period.*
 4355 *A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a*
 4356 *cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis*
 4357 *dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four*
 4358 *ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is*
 4359 *dispensed. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a*
 4360 *pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the*
 4361 *patient and adjust the amount dispensed accordingly.*

4362 B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products
 4363 produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that
 4364 have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a
 4365 registered industrial hemp handler or processor pursuant to § 4.1-1602. A pharmaceutical processor may
 4366 begin cultivation upon being issued a permit by the Board.

4367 C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General
 4368 Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical
 4369 processors and cannabis dispensing facilities issued a permit by the Board.

4370 D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15
 4371 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis
 4372 product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such
 4373 concentration in any cannabis product on site is within such range. A pharmaceutical processor producing
 4374 cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date
 4375 of longer than 12 months.

4376 E. *All transportation or delivery of usable cannabis, botanical cannabis, cannabis oil, or cannabis*
 4377 *products, whether by an employee or delivery agent, shall comply with the provisions of this subtitle and*
 4378 *Board regulations, including those related to background checks, proof of identification, vehicle security,*
 4379 *GPS tracking, secure communications, and recordkeeping. The Board may suspend or revoke the privileges*
 4380 *of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products*
 4381 *for failure of such employee or delivery agent to comply with the provisions of this subtitle or Board*
 4382 *regulations.*

4383 **§ 4.1-1603.1. Packaging and labeling; corrections.**

4384 A. Pharmaceutical processors shall comply with all packaging and labeling requirements set forth in this
 4385 article and Board regulations. *Product labels for all cannabis products and botanical cannabis shall be*
 4386 *complete, accurate, easily discernible, and uniform among different products and brands. Pharmaceutical*
 4387 *processors shall affix to all cannabis products and botanical cannabis a label, which shall also be accessible*
 4388 *on the pharmaceutical processor's website. The provisions of § 4.1-1405 shall apply, mutatis mutandis, to the*
 4389 *packaging and labeling of all cannabis products and botanical cannabis.*

4390 B. ~~No cannabis product shall be packaged in a container or wrapper that bears, or is otherwise labeled to~~
 4391 ~~bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark,~~
 4392 ~~imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product~~
 4393 ~~intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact~~
 4394 ~~so manufacture, process, pack, or distribute such cannabis product.~~

4395 C. Pharmaceutical processors may correct typographical errors made on cannabis product labels and any
 4396 documents generated as the result of a wholesale transaction.

4397 **§ 4.1-1603.2. Cannabis product registration.**

4398 A. A pharmaceutical processor shall register with the Board each cannabis product it manufactures.
 4399 Applications for cannabis product registration shall be submitted to the Board on a form prescribed by the
 4400 Board. *The provisions of § 4.1-1407 shall apply, mutatis mutandis, to the registration of such cannabis*
 4401 *products.*

4402 B. An application for cannabis product registration shall include:

4403 1. The total tetrahydrocannabinol and total cannabidiol in such cannabis product, based on laboratory
 4404 testing results for the cannabis product formulation;

4405 2. A product name;

4406 3. A proposed product package; and

4407 4. A proposed product label, which shall not be required to contain an expiration date at the time of
 4408 application.

4409 C. The Board shall register all cannabis products that meet testing, labeling, and packaging standards after
 4410 an application for registration is submitted. If the cannabis product fails to meet such standards or the
 4411 application was deficient, the Board shall notify the applicant of the specific reasons for such failure or
 4412 deficiency.

4413 D. Within two business days of the Board's approval or deemed approval of any cannabis product
 4414 registration, the Board shall enter the cannabis product's national drug code number into the Prescription
 4415 Monitoring Program.

4416 E. The following cannabis product deviations from an approved cannabis product registration shall be
 4417 permitted without any requirement for a new cannabis product registration or notice to the Board:

4418 1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a
 4419 cannabis product or dose thereof of up to 15 percent greater than or less than the concentration of total
 4420 tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved cannabis product registration;
 4421 however, for a cannabis product with five milligrams or less of total THC or total CBD per dose, the total
 4422 THC or total CBD concentration shall be within 0.5 milligrams of the single dose total THC or total CBD
 4423 concentrations approved for that cannabis product;

4424 2. A variation in packaging, provided that the packaging is substantially similar to the approved packaging
 4425 and otherwise complies with applicable packaging requirements;

4426 3. A deviation in labeling, including a variation made in accordance with § 54.1-3442.7:1, that reflects
 4427 allowable deviations in total THC or total CBD or that makes a minor text, font, design, or similar
 4428 modification, provided that the labeling is substantially similar to the approved labeling and otherwise
 4429 complies with applicable labeling requirements; and

4430 4. Any other insignificant changes.

4431 F. A pharmaceutical processor may submit a request to modify an existing cannabis product registration in
 4432 the event of a cannabis product deviation that is not set forth in subsection E. Upon receipt, the Board shall
 4433 respond to such request. The Board may grant or deny the request, propose a reasonable revision, or require
 4434 the pharmaceutical processor to provide additional information.

4435 **§ 4.1-1604. Criminal liability; exceptions.**

4436 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted
 4437 under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, 18.2-248-1, or 18.2-250 for possession or manufacture of
 4438 marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty,
 4439 denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such
 4440 agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis
 4441 products in accordance with the provisions of this chapter and Board regulations or (ii) possessed,
 4442 manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis
 4443 industry standards in accordance with the provisions of this chapter and Board regulations.

4444 **CHAPTER 17.**

4445 **REGULATED HEMP PRODUCTS.**

4446 **§ 4.1-1700. Regulated hemp product retail facility registration; fee.**

4447 A. No person shall offer for sale or sell at retail (i) a regulated hemp product or (ii) a substance intended
 4448 for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial
 4449 hemp-derived cannabinoid without a regulated hemp product retail facility registration.

4450 B. A nonrefundable annual registration fee of \$1,000 shall be required with each application for a
 4451 regulated hemp product retail facility registration.

4452 C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of
 4453 issuance and may be renewed in successive years. Each annual renewal shall require the payment of the
 4454 nonrefundable annual registration fee prescribed in subsection B.

4455 D. A regulated hemp product retail facility registration shall be required for each location that offers for
 4456 sale or sells at retail regulated hemp products.

4457 E. Any person seeking a regulated hemp product retail facility registration shall apply to the Board on a
 4458 form provided by the Authority. At a minimum, the application shall include:

- 4459 1. The name and mailing address of the applicant;
- 4460 2. The physical address of the facility from which the applicant intends to offer for sale or sell at retail a
- 4461 regulated hemp product. A registration shall authorize the offering for sale or sale of regulated hemp
- 4462 products only at the location specified in the registration;
- 4463 3. Written consent allowing the Authority or its designee to enter the location from which the regulated
- 4464 hemp product is offered for sale or sold to ensure compliance with the requirements of this article;
- 4465 4. If the applicant intends to offer for sale or sell an edible hemp product, a copy of the permit issued by
- 4466 the Commissioner of Agriculture and Consumer Services pursuant to § 3.2-5100;
- 4467 5. Any other information required by the Board; and
- 4468 6. The payment of a nonrefundable application fee.
- 4469 F. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug
- 4470 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to
- 4471 Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.
- 4472 **§ 4.1-1701. Product packaging, labeling, and testing.**
- 4473 A. No person shall offer for sale or sell at retail a regulated hemp product unless the product is:
- 4474 1. Contained in child-resistant packaging, as defined in § 4.1-600, if the product contains
- 4475 tetrahydrocannabinol;
- 4476 2. Equipped with a label that states, in English and in a font no less than 1/16 of an inch, (i) all
- 4477 ingredients contained in the substance; (ii) the amount of such substance that constitutes a single serving;
- 4478 (iii) the total percentage and milligrams of all tetrahydrocannabinols included in the substance and the total
- 4479 number of milligrams of all tetrahydrocannabinols that are contained in each serving; and (iv) if the
- 4480 substance contains tetrahydrocannabinol, that the product may not be sold to persons younger than 21 years
- 4481 of age; and
- 4482 3. Accompanied by a certificate of analysis, produced by an independent laboratory that is accredited
- 4483 pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party
- 4484 accrediting body, that states the total tetrahydrocannabinol concentration of the substance or the total
- 4485 tetrahydrocannabinol concentration of the batch from which the substance originates. The certificate of
- 4486 accreditation to standard ISO/IEC 17025 issued by the third-party accrediting body to the independent
- 4487 laboratory shall be available for review at the location at which the regulated hemp product is offered for
- 4488 sale or sold.
- 4489 This subsection shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 4490 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 4491 any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.
- 4492 B. No person shall offer for sale or sell a regulated hemp product that depicts or is in the shape of a
- 4493 human, animal, vehicle, or fruit.
- 4494 C. No person shall offer for sale or sell a regulated hemp product that, without authorization, bears, is
- 4495 packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name,
- 4496 famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness
- 4497 thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption
- 4498 other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack,
- 4499 or distribute such substance.
- 4500 **§ 4.1-1702. Topical hemp products; civil penalty.**
- 4501 A. A topical hemp product that is offered for sale or sold at retail must bear a label stating that the
- 4502 product is not intended for human consumption.
- 4503 B. A person that offers for sale or sells at retail a topical hemp product that does not bear a label stating
- 4504 that the product is not intended for human consumption is subject to a civil penalty not to exceed \$500 for
- 4505 each day a violation occurs. Such penalty shall be collected by the Authority and the proceeds shall be
- 4506 payable to the State Treasurer for remittance to the Board.
- 4507 C. Notwithstanding the provisions of subsection A, a person may offer for sale or sell a topical hemp
- 4508 product that does not bear a label stating that the product is not intended for human consumption if that
- 4509 person provides, upon request by the Authority, documentation that the topical hemp product was
- 4510 manufactured prior to July 1, 2023.
- 4511 D. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug
- 4512 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to
- 4513 Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.
- 4514 **§ 4.1-1703. Authority to have access to retail facilities.**
- 4515 A. The Authority or its designee shall have access during business hours to a registered regulated hemp
- 4516 product retail facility and to a business that offers for sale or sells at retail a substance intended for human
- 4517 consumption, orally or by inhalation, that is advertised or labeled as containing a cannabinoid for the
- 4518 purpose of:
- 4519 1. Inspecting to determine if any of the provisions of this chapter are being violated; and
- 4520 2. Securing samples of any regulated hemp product or substance intended for human consumption, orally

4521 *or by inhalation, that is advertised or labeled as containing a cannabinoid. It shall be the duty of the*
 4522 *Authority or its designee to make or cause to be made examinations or laboratory analysis of samples*
 4523 *secured under the provisions of this section to determine whether any provision of this chapter is being*
 4524 *violated.*

4525 *B. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug*
 4526 *Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to*
 4527 *Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.*

4528 **§ 4.1-1704. Civil penalties.**

4529 *A. The Board may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny the*
 4530 *application for a regulated hemp product retail facility registration or suspend or revoke the regulated hemp*
 4531 *product retail facility registration of any person that (i) violates a provision of this chapter or (ii) has*
 4532 *repeatedly violated any provisions of this subtitle by, without displaying a decal as required pursuant to*
 4533 *§ 4.1-1106.1, engaging in the illegal sale of marijuana or marijuana products on the licensed premises of an*
 4534 *establishment or marketing or labeling products as marijuana or marijuana products.*

4535 *B. Any person that (i) offers for sale or sells at retail a regulated hemp product without first obtaining a*
 4536 *registration to do so from the Board in accordance with § 4.1-1700; (ii) continues to offer for sale or sell at*
 4537 *retail a regulated hemp product after revocation or suspension of such registration; (iii) offers for sale or*
 4538 *sells at retail a substance intended for human consumption, orally or by inhalation, that (a) contains a total*
 4539 *tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams*
 4540 *of total tetrahydrocannabinol per package; (iv) offers for sale or sells at retail a regulated hemp product in*
 4541 *violation of § 4.1-1701; or (v) offers for sale or sells at retail a substance intended for human consumption,*
 4542 *orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid*
 4543 *without a regulated hemp product retail facility registration is, in addition to any other penalties provided,*
 4544 *subject to a civil penalty not to exceed \$10,000 for each day a violation occurs. Such penalty shall be*
 4545 *collected by the Authority and the proceeds shall be payable to the State Treasurer for remittance to the*
 4546 *Board.*

4547 **§ 4.1-1705. Virginia Regulated Hemp Product Fund.**

4548 *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia*
 4549 *Regulated Hemp Product Fund, hereafter referred to as "the Fund," for the purposes of this chapter. The*
 4550 *Fund shall be established on the books of the Comptroller. All moneys levied and collected under the*
 4551 *provisions of this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on*
 4552 *moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,*
 4553 *including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain*
 4554 *in the Fund. Moneys in the Fund shall be used by the Authority solely for carrying out the purposes of this*
 4555 *chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants*
 4556 *issued by the Comptroller upon written request signed by the Authority.*

4557 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
 4558 **operation.**

4559 *Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the lands or*
 4560 *waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any narcotic or*
 4561 *marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a state*
 4562 *correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying*
 4563 *the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both such fine*
 4564 *and imprisonment.*

4565 *Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the lands or*
 4566 *waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or*
 4567 *safety of others, or without due caution and circumspection and in a manner so as to endanger any person or*
 4568 *property, ~~shall be~~ is guilty of a misdemeanor.*

4569 **§ 6.2-108. Financial services for licensed marijuana establishments.**

4570 *A. As used in this section:*

4571 *"Business associate" means a person that provides goods or services to, or receives goods or services*
 4572 *from, a licensed marijuana establishment in connection with lawful marijuana-related activities.*

4573 *"Financial service" includes deposit accounts, loans, lines of credit, payment processing, funds*
 4574 *transmission, cash management services, and other services customarily provided by a bank or credit union*
 4575 *in the ordinary course of business.*

4576 *"Licensed" and "marijuana establishment" have the same meanings as provided in § 4.1-600.*

4577 *B. A bank or credit union may provide financial services to a licensed marijuana establishment or its*
 4578 *business associates, subject to applicable state and federal law.*

4579 *C. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the*
 4580 *officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state*
 4581 *law or regulation solely for providing such a financial service or for further investing any income derived*
 4582 *from such a financial service.*

4583 *D. Nothing in this section shall require a bank or credit union to provide financial services to a licensed*
 4584 *marijuana establishment.*

4585 *E. No agency or political subdivision of the Commonwealth shall penalize, prohibit, or take adverse*
 4586 *supervisory or regulatory action against a bank or credit union solely because the bank or credit union*
 4587 *provides financial services to a licensed marijuana establishment.*

4588 *F. A bank or credit union, and its officers, directors, and employees, shall not be subject to criminal*
 4589 *prosecution, civil liability, or administrative sanction under the laws of the Commonwealth solely for*
 4590 *providing financial services to a licensed marijuana establishment in compliance with this section.*

4591 *G. The legal interest of a bank or credit union in collateral for a loan or other financial service provided*
 4592 *to a licensed marijuana establishment shall not be subject to civil or criminal forfeiture under the laws of the*
 4593 *Commonwealth solely because the collateral is associated with a licensed marijuana establishment.*

4594 *H. Proceeds derived from a transaction involving a licensed marijuana establishment shall not be*
 4595 *considered proceeds of unlawful activity under the laws of the Commonwealth solely because the transaction*
 4596 *involves a licensed marijuana establishment.*

4597 *I. The protections provided by this section apply where a bank or credit union has exercised reasonable*
 4598 *due diligence to confirm that the marijuana establishment is duly licensed and operating in compliance with*
 4599 *applicable Virginia law.*

4600 *J. The protections of this section extend to financial services provided to a business associate of a licensed*
 4601 *marijuana establishment where such services are provided in connection with lawful marijuana-related*
 4602 *activities.*

4603 *K. Nothing in this section shall be construed to prohibit the Commission from performing its supervisory*
 4604 *duties pursuant to Chapters 8 (§ 6.2-800 et seq.) and 13 (§ 6.2-1300 et seq.) or taking any such action as it*
 4605 *deems necessary to protect depositors and the public interest.*

4606 **§ 9.1-1101. Powers and duties of the Department.**

4607 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of
 4608 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and
 4609 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant
 4610 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any
 4611 private police department that has been designated as a criminal justice agency by the Department of
 4612 Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The
 4613 Department shall provide such services to any federal investigatory agency within available resources.

4614 B. The Department shall:

4615 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth
 4616 and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as
 4617 needed;

4618 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of
 4619 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

4620 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six
 4621 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

4622 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*
 4623 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.*
 4624 *The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider*
 4625 *the potential conversion of tetrahydrocannabinol acid (THC-A) into THC.*

4626 C. The Department shall have the power and duty to:

4627 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes
 4628 of this chapter;

4629 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its
 4630 duties and execution of its powers under this chapter including, but not limited to, contracts with the United
 4631 States, units of general local government or combinations thereof in Virginia or other states, and with
 4632 agencies and departments of the Commonwealth; and

4633 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

4634 D. The Director may appoint and employ a deputy director and such other personnel as are needed to
 4635 carry out the duties and responsibilities conferred by this chapter.

4636 **§ 15.2-912.4. Regulation of tobacco and hemp product retail sale locations.**

4637 Any locality may by ordinance regulate the retail sale locations of retail tobacco products, as such term is
 4638 defined in § 18.2-371.2, or hemp products intended for smoking, as such term is defined in § ~~3.2-4112~~
 4639 *4.1-600*, for any such retail sale location and may prohibit a retail sale location on property within 1,000
 4640 linear feet of a child day center as defined in § 22.1-289.02 or a public, private, or parochial school. An
 4641 ordinance adopted pursuant to this section shall not affect (i) a licensee holding a valid license under
 4642 § 4.1-206.3 or (ii) any retail sale location of retail tobacco products or hemp products intended for smoking
 4643 operating before July 1, 2024.

4644 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**

4645 prepayment of local ordinances.

4646 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,
 4647 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions
 4648 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated
 4649 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local
 4650 ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is
 4651 listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance
 4652 whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2
 4653 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in
 4654 § 46.2-878.3.

4655 Such infractions shall not include:

4656 1. Indictable offenses;

4657 2. [Repealed.]

4658 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic
 4659 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,
 4660 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his
 4661 custody or control;

4662 4. Reckless driving;

4663 5. Leaving the scene of an accident;

4664 6. Driving while under suspension or revocation of driving privileges;

4665 7. Driving without being licensed to drive.

4666 8. [Repealed.]

4667 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a
 4668 magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a
 4669 plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,
 4670 prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of
 4671 guilty will have the same force and effect as a judgment of court, and that the record of conviction will be
 4672 sent to the Commissioner of the Department of Motor Vehicles.

4673 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a
 4674 schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,
 4675 designating each infraction specifically. The schedule, which may from time to time be amended,
 4676 supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule
 4677 shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at
 4678 the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted
 4679 in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this
 4680 Code or any rules or regulations promulgated thereunder.

4681 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and
 4682 fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such
 4683 ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit
 4684 may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for
 4685 prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be
 4686 forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The
 4687 schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its
 4688 application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the
 4689 discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
 4690 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
 4691 provisions of this Code or any rules or regulations promulgated thereunder.

4692 § 16.1-260. Intake; petition; investigation.

4693 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a
 4694 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be
 4695 as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of
 4696 Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing
 4697 of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the
 4698 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated
 4699 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and
 4700 motions relating to the establishment, modification, or enforcement of support on forms approved by the
 4701 Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of
 4702 social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of
 4703 Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish
 4704 paternity, motions to establish or modify support, motions to amend or review an order, and motions for a
 4705 rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except
 4706 petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of

4707 supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the
 4708 local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of
 4709 Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake
 4710 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving
 4711 child support services or public assistance. No individual who is receiving support services or public
 4712 assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for
 4713 support of a child. If the petitioner is seeking or receiving child support services or public assistance, the
 4714 clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the
 4715 court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,
 4716 the intake officer shall provide the petitioner information on the possible availability of medical assistance
 4717 through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored
 4718 coverage through the Department of Medical Assistance Services.

4719 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake
 4720 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and
 4721 audio communication is used, an intake officer may exercise all powers conferred by law. All
 4722 communications and proceedings shall be conducted in the same manner as if the appearance were in person,
 4723 and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed
 4724 by the officer or person to whom sent, and returned in the same manner, and with the same force, effect,
 4725 authority, and liability as an original document. All signatures thereon shall be treated as original signatures.
 4726 Any two-way electronic video and audio communication system used for an appearance shall meet the
 4727 standards as set forth in subsection B of § 19.2-3.1.

4728 When the court service unit of any court receives a complaint alleging facts which may be sufficient to
 4729 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed
 4730 informally to make such adjustment as is practicable without the filing of a petition or may authorize a
 4731 petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause
 4732 for the issuance of the petition.

4733 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of
 4734 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or
 4735 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would
 4736 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony
 4737 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a
 4738 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded
 4739 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if
 4740 committed by an adult.

4741 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the
 4742 attendance officer has provided documentation to the intake officer that the relevant school division has
 4743 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The
 4744 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided
 4745 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of
 4746 supervision on more than two occasions for failure to comply with compulsory school attendance as provided
 4747 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three
 4748 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person
 4749 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may
 4750 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco
 4751 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and
 4752 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided
 4753 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of
 4754 developing a truancy plan using an interagency interdisciplinary team approach. The team may include
 4755 qualified personnel who are reasonably available from the appropriate department of social services,
 4756 community services board, local school division, court service unit, and other appropriate and available
 4757 public and private agencies and may be the family assessment and planning team established pursuant to
 4758 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or
 4759 the truancy program, then the intake officer shall file the petition.

4760 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in
 4761 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the
 4762 juvenile, which may include restitution, the performance of community service, or on a complaint alleging
 4763 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor
 4764 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth
 4765 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the
 4766 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake
 4767 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,
 4768 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint

4769 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to
4770 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice
4771 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice
4772 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's
4773 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

4774 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
4775 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,
4776 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,
4777 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or
4778 other services which are required by law, (iv) family abuse has occurred and a protective order is being
4779 sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has
4780 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either
4781 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake
4782 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of
4783 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the
4784 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be
4785 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.
4786 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,
4787 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of
4788 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective
4789 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written
4790 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders
4791 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

4792 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
4793 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need
4794 of supervision have utilized or attempted to utilize treatment and services available in the community and
4795 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer
4796 determines that the parties have not attempted to utilize available treatment or services or have not exhausted
4797 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to
4798 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or
4799 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a
4800 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

4801 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
4802 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a
4803 finding that no probable cause exists, the complainant shall be notified in writing at that time of the
4804 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall
4805 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that
4806 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant
4807 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy
4808 of the written notification upon application to the magistrate. If a magistrate determines that probable cause
4809 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant
4810 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition
4811 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or
4812 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
4813 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a
4814 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his
4815 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by
4816 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a
4817 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final
4818 and the complainant shall not have a right to apply to a magistrate for a warrant.

4819 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake
4820 officer shall accept and file a petition founded upon the warrant.

4821 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which
4822 alleges facts of an offense which would be a felony if committed by an adult.

4823 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report
4824 with the division superintendent of the school division in which any student who is the subject of a petition
4825 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a
4826 crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to
4827 be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the
4828 petition and the nature of the offense, if the violation involves:

4829 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et
4830 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

- 4831 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
 4832 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
 4833 18.2;
 4834 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
 4835 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
 4836 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
 4837 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11 (§ 18.2-247 4.1-1100 et~~
 4838 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~
 4839 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
 4840 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
 4841 9. Robbery pursuant to § 18.2-58;
 4842 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
 4843 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
 4844 12. An act of violence by a mob pursuant to § 18.2-42.1;
 4845 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
 4846 14. A threat pursuant to § 18.2-60.
 4847 The failure to provide information regarding the school in which the student who is the subject of the
 4848 petition may be enrolled shall not be grounds for refusing to file a petition.
 4849 The information provided to a division superintendent pursuant to this section may be disclosed only as
 4850 provided in § 16.1-305.2.
 4851 H. The filing of a petition shall not be necessary:
 4852 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other
 4853 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any
 4854 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the
 4855 court may proceed on a summons issued by the officer investigating the violation in the same manner as
 4856 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene
 4857 of the accident or at any other location where a juvenile who is involved in such an accident may be located,
 4858 proceed on a summons in lieu of filing a petition.
 4859 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of
 4860 § 16.1-241.
 4861 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any
 4862 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal
 4863 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal
 4864 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal
 4865 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner
 4866 provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of
 4867 § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or
 4868 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or
 4869 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize
 4870 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the
 4871 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.
 4872 When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to have the
 4873 charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that
 4874 such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such
 4875 summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also serve upon the juvenile
 4876 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and
 4877 make return of such service to the court. If the officer fails to make such service or return, the court shall
 4878 dismiss the summons without prejudice.
 4879 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would
 4880 be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer
 4881 proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same
 4882 manner as provided by law for adults provided that notice of the summons to appear is mailed by the
 4883 investigating officer within five days of the issuance of the summons to a parent or legal guardian of the
 4884 juvenile.
 4885 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the
 4886 jurisdiction granted it in § 16.1-241.
 4887 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
 4888 **statement.**
 4889 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
 4890 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of
 4891 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
 4892 violations, the court before final disposition thereof may require an investigation, which (i) shall include a

4893 drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a
 4894 social history of the physical, mental, and social conditions, including an assessment of any affiliation with a
 4895 criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances
 4896 surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an
 4897 act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a
 4898 violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2
 4899 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a*
 4900 *violation of § 4.1-1105*, the court shall order the juvenile to undergo a drug screening. If the drug screening
 4901 indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by
 4902 a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile
 4903 Justice or by a locally operated court services unit or by an individual employed by or currently under
 4904 contract to such agencies and who is specifically trained to conduct such assessments under the supervision
 4905 of such counselor.

4906 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim,
 4907 or may in its discretion, require the preparation of a victim impact statement in accordance with the
 4908 provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical,
 4909 psychological, or economic injury as a result of the violation of law.

4910 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**
 4911 **truancy.**

4912 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time
 4913 of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of
 4914 any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation
 4915 of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248; ~~18.2-248.1~~, or 18.2-250; (iv) a misdemeanor
 4916 violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248; ~~18.2-248.1~~, or 18.2-250 *or a violation*
 4917 *of § 4.1-1105*; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or
 4918 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of
 4919 § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town;
 4920 (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or
 4921 (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as
 4922 provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty
 4923 authorized by this section, if the offense involves a violation designated under clause (i) and the child was
 4924 transporting a person 17 years of age or younger, the court shall impose the additional fine and order
 4925 community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i),
 4926 (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches
 4927 the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile
 4928 reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a
 4929 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six
 4930 months unless the offense is committed by a child under the age of 16 years and three months, in which case
 4931 the child's ability to apply for a driver's license shall be delayed for a period of six months following the date
 4932 he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v)
 4933 or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a
 4934 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the
 4935 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the
 4936 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions
 4937 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of
 4938 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession
 4939 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
 4940 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
 4941 which case the denial of driving privileges shall be for a period of two years unless the offense is committed
 4942 by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's
 4943 license shall be delayed for a period of two years following the date he reaches the age of 16 and three
 4944 months.

4945 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and
 4946 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
 4947 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16
 4948 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not
 4949 less than 30 days following the date he reaches the age of 16 and three months.

4950 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a
 4951 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability
 4952 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three
 4953 months, as may be appropriate.

4954 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of

4955 § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until
 4956 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or
 4957 until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

4958 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as
 4959 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the
 4960 physical custody of the court during any period of license denial.

4961 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
 4962 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
 4963 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
 4964 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record
 4965 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other
 4966 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
 4967 results in an adjudication of guilt pursuant to subsection F.

4968 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's
 4969 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the
 4970 order of denial under subsection E.

4971 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
 4972 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
 4973 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set
 4974 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)
 4975 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such
 4976 terms and conditions as the court may set forth.

4977 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted
 4978 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the
 4979 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection
 4980 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to
 4981 and from home and school when school-provided transportation is available and no restricted license shall be
 4982 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,
 4983 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding
 4984 by the court of failure to comply with school attendance and meeting requirements as provided in subsection
 4985 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection
 4986 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be
 4987 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information
 4988 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under
 4989 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any
 4990 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

4991 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any
 4992 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.
 4993 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one
 4994 year after its issuance.

4995 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
 4996 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
 4997 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if
 4998 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge
 4999 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be
 5000 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying
 5001 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in
 5002 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)
 5003 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
 5004 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second
 5005 violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this
 5006 subsection but shall be disposed of under § 16.1-278.8.

5007 **§ 18.2-46.1. Definitions.**

5008 As used in this article, unless the context requires a different meaning:

5009 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection A of
 5010 § 19.2-297.1.

5011 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,
 5012 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one
 5013 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose
 5014 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to
 5015 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,
 5016 provided such acts were not part of a common act or transaction.

5017 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1,
 5018 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-95, 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128,
 5019 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-287.4,
 5020 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation of
 5021 § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101; *or* 18.2-248; ~~or~~
 5022 ~~18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101; *or* 18.2-248; ~~or 18.2-248.1~~; (v) any
 5023 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense
 5024 under the laws of another state or territory of the United States, the District of Columbia, or the United States.

5025 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI," "imitation
 5026 controlled substance," and "counterfeit controlled substance" in Title 18.2.

5027 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title
 5028 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et
 5029 seq.).

5030 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled
 5031 substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ *that* is not a controlled
 5032 substance subject to abuse, and:

5033 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging or by
 5034 representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other
 5035 form whatsoever will be mistaken for a controlled substance unless such substance was introduced into
 5036 commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to
 5037 imitate; or

5038 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or
 5039 depressant of the central nervous system and which is not commonly used or recognized for use in that
 5040 particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,
 5041 promoted, or sold as permitted by the U.S. Food and Drug Administration.

5042 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
 5043 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
 5044 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes
 5045 rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the
 5046 drug and its appearance in overall finished dosage form, promotional materials or representations, oral or
 5047 written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the
 5048 public.

5049 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,
 5050 whether growing or not; its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or
 5051 preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana"
 5052 does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the
 5053 seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus
 5054 *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to
 5055 subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a
 5056 person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.
 5057 Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in
 5058 § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such
 5059 isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the
 5060 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

5061 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,
 5062 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade
 5063 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,
 5064 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so
 5065 manufacture, process, pack or distribute such drug.

5066 F. E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol,
 5067 including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of
 5068 isomers is possible within the specific chemical designation and any preparation, mixture, or substance
 5069 containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this
 5070 definition, "isomer" means the optical, position, and geometric isomers.

5071 G. F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
 5072 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
 5073 tetrahydrocannabinolic acid.

5074 H. G. The Department of Forensic Science shall determine the proper methods for detecting the
 5075 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100 et
 5076 seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or other
 5077 equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
 5078 tetrahydrocannabinol.

5079 § 18.2-248. **Manufacturing, selling, giving, distributing, or possessing with intent to manufacture,**
 5080 **sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;**
 5081 **penalties.**

5082 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ *is* unlawful for any
 5083 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a
 5084 controlled substance or an imitation controlled substance.

5085 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
 5086 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
 5087 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever
 5088 included an exchange of or a demand for money or other property as consideration, and, if so, whether the
 5089 amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet
 5090 or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule,
 5091 tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter
 5092 substances of like chemical composition sell.

5093 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled
 5094 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more
 5095 than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is
 5096 alleged in the warrant, indictment, or information that the person has been before convicted of such an
 5097 offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if
 5098 committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in
 5099 the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing
 5100 the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of
 5101 which shall be a mandatory minimum term of imprisonment to be served consecutively with any other
 5102 sentence, and he shall be fined not more than \$500,000.

5103 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the
 5104 warrant, indictment or information that he has been before convicted of two or more such offenses or of
 5105 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the
 5106 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,
 5107 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10
 5108 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively
 5109 with any other sentence, and he shall be fined not more than \$500,000.

5110 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
 5111 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and
 5112 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment
 5113 to be served consecutively with any other sentence:

- 5114 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 5115 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 5116 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 5117 derivatives of ecgonine or their salts have been removed;
 - 5118 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 5119 c. Cocaine base;
 - 5120 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 5121 e. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to
 5122 in subdivisions 2a through 2d; or
- 5123 3. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of
 5124 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its
 5125 isomers.

5126 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not
 5127 be applicable if the court finds that:

- 5128 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 5129 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous
 5130 weapon in connection with the offense or induce another participant in the offense to do so;
- 5131 c. The offense did not result in death or serious bodily injury to any person;
- 5132 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not
 5133 engaged in a continuing criminal enterprise as defined in subsection I; and
- 5134 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
 5135 Commonwealth all information and evidence the person has concerning the offense or offenses that were part
 5136 of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or
 5137 useful other information to provide or that the Commonwealth already is aware of the information shall not
 5138 preclude a determination by the court that the defendant has complied with this requirement.

5139 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,

5140 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable
5141 amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned
5142 for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of
5143 such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be
5144 sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than
5145 \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged
5146 in the warrant, indictment, or information that he has been previously convicted of two or more such offenses
5147 or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in
5148 the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,
5149 indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10
5150 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively
5151 with any other sentence and he shall be fined not more than \$500,000.

5152 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be
5153 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
5154 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine
5155 production. This restitution shall include the person's or his estate's estimated or actual expenses associated
5156 with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or
5157 otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or
5158 in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup
5159 Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup,
5160 removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum
5161 of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or
5162 repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant
5163 to § 32.1-11.7.

5164 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled
5165 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate
5166 in a community correctional facility, local correctional facility or state correctional facility as defined in
5167 § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any
5168 consideration received or expected nor to induce the recipient or intended recipient of the controlled
5169 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ *is* guilty of a
5170 Class 5 felony.

5171 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription
5172 of a person authorized under this article to issue the same, which prescription has not been received in writing
5173 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the
5174 pharmacist within one week of the time of filling the same, or if such violation consists of a request by such
5175 authorized person for the filling by a pharmacist of a prescription which has not been received in writing by
5176 the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the
5177 pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

5178 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III
5179 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is*
5180 guilty of a Class 5 felony.

5181 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV
5182 ~~shall be~~ *is* guilty of a Class 6 felony.

5183 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a
5184 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,
5185 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate
5186 in a community correctional facility, local correctional facility or state correctional facility as defined in
5187 § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any
5188 consideration received or expected nor to induce the recipient or intended recipient of the controlled
5189 substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1
5190 misdemeanor.

5191 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or
5192 Schedule VI or an imitation controlled substance ~~which that~~ *imitates* a controlled substance classified in
5193 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

5194 G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~
5195 *imitates* a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In
5196 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the
5197 defendant believed the imitation controlled substance to actually be a controlled substance.

5198 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
5199 give or distribute the following:

- 5200 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 5201 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

- 5202 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
5203 derivatives of ecgonine or their salts have been removed;
- 5204 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 5205 c. Cocaine base;
- 5206 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 5207 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances
5208 referred to in subdivisions a through d; *or*
- 5209 3. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
- 5210 4. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more
5211 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of
5212 its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment
5213 for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum
5214 sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an
5215 offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of
5216 violence or possess a firearm or other dangerous weapon in connection with the offense or induce another
5217 participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any
5218 person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was
5219 not engaged in a continuing criminal enterprise as defined in subsection I ~~of this section~~; and (v) not later
5220 than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all
5221 information and evidence the person has concerning the offense or offenses that were part of the same course
5222 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other
5223 information to provide or that the Commonwealth already is aware of the information shall not preclude a
5224 determination by the court that the defendant has complied with this requirement.
- 5225 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of
5226 a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000
5227 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,
5228 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,
5229 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,
5230 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any
5231 12-month period of its existence:
- 5232 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable
5233 amount of heroin;
- 5234 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
5235 amount of:
- 5236 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
5237 derivatives of ecgonine or their salts have been removed;
- 5238 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 5239 c. Cocaine base;
- 5240 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 5241 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances
5242 referred to in subdivisions a through d; *or*
- 5243 3. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~
5244 ~~amount of marijuana; or~~
- 5245 4. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its
5246 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable
5247 amount of methamphetamine, its salts, isomers, or salts of its isomers.
- 5248 A conviction under this section shall be punishable by a fine of not more than \$1 million and
5249 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.
- 5250 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of
5251 a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any
5252 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or
5253 ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or
5254 (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to
5255 manufacture, sell, give or distribute the following during any 12-month period of its existence:
- 5256 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
- 5257 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:
- 5258 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
5259 derivatives of ecgonine or their salts have been removed;
- 5260 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 5261 c. Cocaine base;
- 5262 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 5263 e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances

5264 referred to in subdivisions a through d; *or*

5265 3. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

5266 4. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
5267 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
5268 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and
5269 imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be
5270 made to run consecutively with any other sentence. However, the court may impose a mandatory minimum
5271 sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement
5272 authorities.

5273 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any
5274 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a
5275 continuing series of violations of this section which are undertaken by such person in concert with five or
5276 more other persons with respect to whom such person occupies a position of organizer, a supervisory
5277 position, or any other position of management, and from which such person obtains substantial income or
5278 resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance
5279 classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street
5280 gang as defined in § 18.2-46.1.

5281 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two
5282 or more different substances listed below with the intent to manufacture methamphetamine, methcathinone,
5283 or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether,
5284 hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine,
5285 phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal,
5286 sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate,
5287 chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

5288 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
5289 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts
5290 of optical isomers.

5291 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

5292 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
5293 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine,
5294 coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug
5295 Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds~~
5296 ~~of marijuana~~. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the
5297 person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of
5298 which shall be a mandatory minimum term of imprisonment, and a fine not to exceed ~~\$1,000,000~~ *\$1 million*.
5299 A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of
5300 imprisonment of 10 years, which shall be served consecutively with any other sentence.

5301 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance**
5302 **abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;**
5303 **violations; discharge.**

5304 Whenever any person who has not previously been convicted of any criminal offense under this article or
5305 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
5306 depressant, or hallucinogenic drugs, ~~with the exception of any misdemeanor conviction for possession of~~
5307 ~~marijuana~~, or has not previously had a proceeding against him for violation of such an offense dismissed as
5308 provided in this section, ~~except a dismissal of a misdemeanor offense for possession of marijuana~~, pleads
5309 guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,
5310 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of
5311 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon
5312 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether
5313 the clerk of court has been provided with the fingerprint identification information or fingerprints of the
5314 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints
5315 and photograph of the person be taken by a law-enforcement officer.

5316 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
5317 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
5318 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based
5319 upon consideration of the substance abuse assessment. The program or services may be located in the judicial
5320 district in which the charge is brought or in any other judicial district as the court may provide. The services
5321 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental
5322 Services, by a similar program which is made available through the Department of Corrections, (ii) a local
5323 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program
5324 certified by the Commission on VASAP.

5325 The court shall require the person entering such program under the provisions of this section to pay all or

5326 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,
5327 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

5328 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or
5329 education program or services, (b) to remain drug and alcohol free during the period of probation and submit
5330 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and
5331 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a
5332 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a
5333 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel
5334 of any program or agency approved by the supervising probation agency.

5335 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
5336 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
5337 court has been provided with the fingerprint identification information or fingerprints of such person, the
5338 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this
5339 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section
5340 in subsequent proceedings.

5341 Notwithstanding any other provision of this section, whenever a court places an individual on probation
5342 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of
5343 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has
5344 had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

5345 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual**
5346 **violence.**

5347 A. For purposes of this section:

5348 "Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws
5349 pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

5350 "Overdose" means a life-threatening condition resulting from the consumption or use of a controlled
5351 substance, alcohol, or any combination of such substances.

5352 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
5353 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana
5354 pursuant to ~~§ 4.1-1105.1~~ 4.1-1105, involuntary manslaughter pursuant to § 18.2-36.3, possession of a
5355 controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of
5356 controlled paraphernalia pursuant to § 54.1-3466 if:

5357 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is
5358 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;
5359 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical
5360 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in
5361 § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as
5362 defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or
5363 assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid
5364 antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or
5365 obtains emergency medical attention in accordance with this subdivision;

5366 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the
5367 person requiring emergency medical attention has been transported until a law-enforcement officer responds
5368 to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the
5369 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

5370 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
5371 overdose; and

5372 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
5373 the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

5374 C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
5375 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana
5376 pursuant to ~~§ 4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication
5377 in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

5378 1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from
5379 emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in
5380 § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual
5381 violence committed against himself or another individual;

5382 2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act
5383 of sexual violence; and

5384 3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
5385 the individual seeking or obtaining medical attention, rendering care or assistance, or reporting to law
5386 enforcement.

5387 This subsection shall not apply to an individual who is alleged to have committed the act of sexual

5388 violence.

5389 D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
5390 attention for himself or another individual, to a person experiencing an overdose or who has experienced an
5391 act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a
5392 person who renders emergency care or assistance to an individual experiencing an overdose or who has
5393 experienced an act of sexual violence while another person seeks or obtains emergency medical attention
5394 during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

5395 E. This section does not establish protection from arrest or prosecution for any individual or offense other
5396 than those listed in subsection B or C. However, any individual immune to arrest or prosecution under this
5397 section shall not have his bail, probation, furlough, supervised release, suspended sentence, or parole revoked
5398 for the behavior immune from arrest or prosecution under the provisions of this section.

5399 F. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
5400 determined that the person arrested was immune from prosecution under this section.

5401 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

5402 No school nurse employed by a local school board, person employed by a local health department who is
5403 assigned to the public school pursuant to an agreement between the local health department and the school
5404 board, or other person employed by or contracted with a local school board to deliver health-related services
5405 shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, 18.2-250, or
5406 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis
5407 oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid
5408 written certification for the use of cannabis oil in accordance with § 4.1-1601.

5409 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing
5410 facilities; hospice and hospice facilities; assisted living facilities.**

5411 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
5412 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under
5413 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the possession or
5414 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient
5415 or resident who has been issued a valid written certification for the use of cannabis oil in accordance with
5416 § 4.1-1601.

5417 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;
5418 Department of Agriculture and Consumer Services, Department of Law employees.**

5419 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
5420 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a
5421 federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing
5422 required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,
5423 ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for
5424 storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by
5425 the Board of ~~Pharmacy~~ *of Directors of the Virginia Cannabis Control Authority* and the Board of Agriculture
5426 and Consumer Services.

5427 B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law
5428 shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § ~~18.2-247~~, 18.2-248, 18.2-248.01,
5429 ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing
5430 tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol
5431 is necessary in the performance of his duties.

5432 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,
5433 and treatment or education.**

5434 The trial judge or court trying the case of any person found guilty of a criminal violation of any law
5435 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
5436 substances and like substances shall condition any suspended sentence by first requiring such person to agree
5437 to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance
5438 abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by
5439 the supervising probation agency or by personnel of any program or agency approved by the supervising
5440 probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed
5441 as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any
5442 suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or
5443 court deems appropriate based upon consideration of the substance abuse assessment. The treatment or
5444 education shall be provided by a program or agency licensed by the Department of Behavioral Health and
5445 Developmental Services, by a similar program or services available through the Department of Corrections if
5446 the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a
5447 similar program or services available through a local or regional jail, a local community-based probation
5448 services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on
5449 VASAP.

5450 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

5451 A. Whenever any person who has not previously been convicted of any criminal offense under this article
 5452 or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
 5453 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such
 5454 an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any
 5455 manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like
 5456 substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to
 5457 § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be
 5458 directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and
 5459 taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to
 5460 undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate
 5461 based upon consideration of the substance abuse assessment. The treatment or education shall be provided by
 5462 a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a
 5463 similar program or services available through the Department of Corrections if the court imposes a sentence
 5464 of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services
 5465 available through a local or regional jail, a local community-based probation services agency established
 5466 pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

5467 B. The court trying the case of any person alleged to have committed any criminal offense designated by
 5468 this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the
 5469 commission of the offense was motivated by or closely related to the use of drugs and determined by the
 5470 court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs
 5471 may commit, based upon a consideration of the substance abuse assessment, such person, upon his
 5472 conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of
 5473 Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not
 5474 in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if
 5475 sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury.
 5476 Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and
 5477 the person so committed may be convicted of escape if he leaves the place of commitment without authority.
 5478 A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the
 5479 jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any
 5480 time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a
 5481 certified statement from the director of the treatment facility to the effect that the confined person has
 5482 successfully responded to treatment, the court may release such confined person prior to the termination of
 5483 the period of time for which such person was confined and may suspend the remainder of the term upon such
 5484 conditions as the court may prescribe.

5485 C. The court trying a case in which commission of the criminal offense was related to the defendant's
 5486 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and
 5487 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the
 5488 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons
 5489 with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space
 5490 is available in such facility, for a period of time not in excess of the maximum term of imprisonment
 5491 specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated
 5492 as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the
 5493 place of commitment without authority. The court may revoke such commitment at any time and transfer the
 5494 person to an appropriate state or local correctional facility. Upon presentation of a certified statement from
 5495 the director of the treatment facility to the effect that the confined person has successfully responded to
 5496 treatment, the court may release such confined person prior to the termination of the period of time for which
 5497 such person was confined and may suspend the remainder of the term upon such conditions as the court may
 5498 prescribe.

5499 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

5500 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) of ~~Title 54.1~~, it shall be
 5501 *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug
 5502 classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of age who is at least three
 5503 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug
 5504 classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this provision shall upon conviction
 5505 be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined
 5506 not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a
 5507 Schedule I or II controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum
 5508 sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one~~
 5509 ~~ounce of marijuana shall be a mandatory minimum sentence.~~

5510 B. It ~~shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 5511 distribute any imitation controlled substance to a person under 18 years of age who is at least three years his

5512 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled
 5513 substance. Any person violating this provision ~~shall be~~ *is* guilty of a Class 6 felony.

5514 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 5515 **administering controlled substances to minors; penalty.**

5516 It ~~shall be~~ *is* a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a
 5517 minor any book, pamphlet, periodical, or other printed matter ~~which~~ *that* he knows advertises for sale any
 5518 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering,
 5519 preparing, or growing ~~marijuana~~ or a controlled substance.

5520 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

5521 A. It ~~shall be~~ *is* unlawful for any person to manufacture, sell, or distribute or possess with intent to sell,
 5522 give, or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

5523 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary
 5524 school, any institution of higher education, or any clearly marked licensed child day center as defined in
 5525 § 22.1-289.02;

5526 2. Upon public property or any property open to public use within 1,000 feet of the property described in
 5527 subdivision 1;

5528 3. On any school bus as defined in § 46.2-100;

5529 4. Upon a designated school bus stop, or upon either public property or any property open to public use
 5530 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be
 5531 picked up and transported to or are being dropped off from school or a school-sponsored activity;

5532 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 5533 recreation or community center facility or any public library; or

5534 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property
 5535 open to public use within 1,000 feet of such ~~an institution~~ *facility*. It is a violation of the provisions of this
 5536 section if the person possessed the controlled substance; *or* imitation controlled substance; ~~or marijuana~~ on
 5537 the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or
 5538 distribute the controlled substance; *or* imitation controlled substance; ~~or marijuana~~. Nothing in this section
 5539 shall prohibit the authorized distribution of controlled substances.

5540 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
 5541 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more
 5542 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an
 5543 offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act
 5544 (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum
 5545 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
 5546 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
 5547 individual and not with intent to profit thereby from any consideration received or expected nor to induce the
 5548 recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or
 5549 dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

5550 C. If a person commits an act violating the provisions of this section, and the same act also violates
 5551 another provision of law that provides for penalties greater than those provided for by this section, then
 5552 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or
 5553 the imposition of any penalties provided for thereby.

5554 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

5555 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 5556 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge
 5557 of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is
 5558 frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined
 5559 in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing
 5560 controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of
 5561 controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of
 5562 any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes,
 5563 keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and; for a second or
 5564 subsequent offense, a Class 6 felony.

5565 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

5566 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 5567 dwelling house, apartment or building or structure of any kind ~~which~~ *that* is (i) substantially altered from its
 5568 original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a
 5569 law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing
 5570 controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a
 5571 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
 5572 felony.

5573 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,**

5574 **deceit or forgery.**

5575 A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to
5576 procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation,
5577 embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by
5578 the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

5579 B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in or omit any
5580 information from, or willfully make a false statement in, any prescription, order, report, record, or other
5581 document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

5582 C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a
5583 controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to
5584 another person.

5585 D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
5586 ~~marijuana~~, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
5587 physician, dentist, veterinarian, or other authorized person.

5588 E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged
5589 written order.

5590 F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle
5591 containing any controlled substance.

5592 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or
5593 of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such
5594 drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of
5595 any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and
5596 who are acting in the course of their employment; provided that such manufacturer is licensed under the
5597 provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical
5598 manufacturer, its agents and duly authorized representatives file with the Board such information as the
5599 Board may deem appropriate.

5600 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein
5601 ~~shall be~~ *is* guilty of a Class 6 felony.

5602 Whenever any person who has not previously been convicted of any offense under this article or under
5603 any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant,
5604 or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense
5605 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for
5606 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court
5607 may place him on probation upon terms and conditions.

5608 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or
5609 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the
5610 accused. This program may be located in the judicial circuit in which the charge is brought or in any other
5611 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by
5612 the Department of Behavioral Health and Developmental Services. The court shall require the person entering
5613 such program under the provisions of this section to pay all or part of the costs of the program, including the
5614 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the
5615 person is determined by the court to be indigent.

5616 As a condition of supervised probation, the court shall require the accused to remain drug free during the
5617 period of probation and submit to such tests during that period as may be necessary and appropriate to
5618 determine if the accused is drug free. Such testing may be conducted by the personnel of any screening,
5619 evaluation, and education program to which the person is referred or by the supervising agency.

5620 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the
5621 original arresting law-enforcement agency to submit to fingerprinting.

5622 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and
5623 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find
5624 the defendant guilty of a Class 1 misdemeanor.

5625 **§ 18.2-265.1. Definition.**

5626 As used in this article, "drug paraphernalia" means all equipment, products, and materials of any kind
5627 which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for
5628 use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
5629 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,
5630 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ ~~or~~ a
5631 controlled substance. "Drug paraphernalia" includes:

5632 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting
5633 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be
5634 derived;

5635 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,

- 5636 processing, or preparing ~~marijuana or~~ controlled substances;
- 5637 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana or~~
- 5638 any species of plant ~~which that~~ is a controlled substance;
- 5639 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or
- 5640 effectiveness of ~~marijuana or~~ controlled substances, other than drug checking products used to determine the
- 5641 presence or concentration of a contaminant that can cause physical harm or death;
- 5642 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana or~~
- 5643 controlled substances;
- 5644 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
- 5645 designed for use in cutting controlled substances;
- 5646 7. ~~Separation bins and sifters intended for use or designed for use in removing twigs and seeds from, or in~~
- 5647 ~~otherwise cleaning or refining, marijuana;~~
- 5648 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
- 5649 compounding controlled substances;
- 5650 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging
- 5651 small quantities of ~~marijuana or~~ controlled substances;
- 5652 10. 9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~
- 5653 ~~or~~ controlled substances;
- 5654 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
- 5655 parenterally injecting controlled substances into the human body;
- 5656 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
- 5657 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 5658 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
- 5659 screens, ~~hashish heads~~, or punctured metal bowls;
- 5660 b. Water pipes;
- 5661 c. Carburetion tubes and devices;
- 5662 d. Smoking and carburetion masks;
- 5663 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that has
- 5664 become too small or too short to be held in the hand;
- 5665 f. Miniature cocaine spoons, and cocaine vials;
- 5666 g. Chamber pipes;
- 5667 h. Carburetor pipes;
- 5668 i. Electric pipes;
- 5669 j. Air-driven pipes;
- 5670 k. Chillums;
- 5671 l. Bongs;
- 5672 m. Ice pipes or chillers.
- 5673 **§ 18.2-265.2. Evidence to be considered in cases under this article.**
- 5674 In determining whether an object is drug paraphernalia, the court may consider, in addition to all other
- 5675 relevant evidence, the following:
- 5676 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 5677 2. The proximity of the object to ~~marijuana or~~ controlled substances, which proximity is actually known to
- 5678 the accused;
- 5679 3. Instructions, oral or written, provided with the object concerning its use;
- 5680 4. Descriptive materials accompanying the object ~~which that~~ explain or depict its use;
- 5681 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 5682 6. The manner in which the object is displayed for sale;
- 5683 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
- 5684 licensed distributor or dealer of tobacco products;
- 5685 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business
- 5686 enterprise;
- 5687 9. The existence and scope of legitimate uses for the object in the community;
- 5688 10. Expert testimony concerning its use or the purpose for which it was designed; *and*
- 5689 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
- 5690 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in
- 5691 control of the object, as to a direct violation of this article shall not prevent a finding that the object is
- 5692 intended for use or designed for use as drug paraphernalia.
- 5693 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**
- 5694 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
- 5695 circumstances where one reasonably should know, that it is either designed for use or intended by such
- 5696 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
- 5697 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or

5698 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1
5699 misdemeanor.

5700 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
5701 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6
5702 felony.

5703 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is*
5704 guilty of a Class 1 misdemeanor.

5705 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

5706 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation
5707 of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife and is wearing
5708 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4
5709 felony.

5710 **§ 18.2-308.012. Prohibited conduct.**

5711 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,
5712 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction
5713 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under
5714 the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of
5715 § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of
5716 § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall
5717 revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person
5718 convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a
5719 period of five years.

5720 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in
5721 § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been
5722 granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic
5723 beverage while on the premises. A person who carries a concealed handgun onto the premises of such a
5724 restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in
5725 this subsection shall apply to a federal, state, or local law-enforcement officer.

5726 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

5727 A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in
5728 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge
5729 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate
5730 and distinct felony.

5731 B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in
5732 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent
5733 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a
5734 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum
5735 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to
5736 run consecutively with, any punishment received for the commission of the primary felony.

5737 C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or
5738 other firearm or display such weapon in a threatening manner while committing or attempting to commit the
5739 illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a
5740 controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~
5741 ~~more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a
5742 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum
5743 term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to
5744 run consecutively with, any punishment received for the commission of the primary felony.

5745 **§ 18.2-371.2. Prohibiting purchase or possession of retail tobacco products and hemp products
5746 intended for smoking by a person under 21 years of age or sale of retail tobacco products and hemp
5747 products intended for smoking to persons under 21 years of age; civil penalties.**

5748 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person
5749 younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years
5750 of age, any retail tobacco product or hemp product intended for smoking.

5751 No person shall sell retail tobacco products or hemp products intended for smoking from a vending
5752 machine.

5753 B. No person shall sell a retail tobacco product or hemp product intended for smoking to any individual
5754 who does not demonstrate, by producing a driver's license or similar photo identification issued by a
5755 government agency, that the individual is at least 21 years of age.

5756 Before a retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as
5757 defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the
5758 retail tobacco products shall verify that the consumer is of legal age by examining from any person who
5759 appears to be under 30 years of age a government-issued photographic identification that establishes that the

5760 person is of legal age or, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of
5761 § 59.1-293.12, verifying the identification presented using identification fraud detection software,
5762 technology, or a scanner that confirms the authenticity of such identification.

5763 This subsection shall not apply to mail order or Internet sales, provided that the person offering the retail
5764 tobacco product or hemp product intended for smoking for sale through mail order or the Internet (i) prior to
5765 the sale of the retail tobacco product or hemp product intended for smoking verifies that the purchaser is at
5766 least 21 years of age through a commercially available database that is regularly used by businesses or
5767 governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing,
5768 shipping, or delivery that requires the signature of a person at least 21 years of age before the retail tobacco
5769 product or hemp product intended for smoking will be released to the purchaser.

5770 C. A violation of subsection A or B by an individual or by a separate retail establishment is punishable by
5771 a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of \$2,500 for a
5772 second or subsequent violation within a three-year period. If applicable, upon a second or subsequent
5773 violation within a three-year period, the Department of Taxation may suspend or revoke any approved
5774 license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04:1.

5775 For any violation of this section by an employee of a retail establishment, (i) such penalty shall be
5776 assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the
5777 employee.

5778 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may
5779 bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement
5780 officer may issue a summons for a violation of subsection A or B.

5781 D. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided
5782 by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers
5783 for sale any retail tobacco product or hemp product intended for smoking shall post in a conspicuous manner
5784 and place a sign or signs indicating that the sale of retail tobacco products or hemp products intended for
5785 smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town
5786 in which an alleged violation of this subsection occurred may enforce this subsection by civil action to
5787 recover a civil penalty not to exceed \$500. The civil penalty shall be paid into the local treasury. No filing fee
5788 or other fee or cost shall be charged to the county, city, or town which instituted the action.

5789 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
5790 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
5791 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
5792 such regulations.

5793 3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
5794 enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be
5795 paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town
5796 which instituted the action.

5797 E. Nothing in this section shall be construed to create a private cause of action.

5798 F. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
5799 issue a summons for any violation of this section. Additionally, any retailer selling retail tobacco products
5800 shall be subject to the enforcement and compliance provisions of Chapter 23.2 (§ 59.1-293.10 et seq.) of Title
5801 59.1.

5802 G. As used in this section:

5803 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized
5804 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
5805 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or
5806 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of
5807 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any
5808 (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic
5809 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
5810 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination
5811 products are authorized for sale by the U.S. Food and Drug Administration.

5812 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in §
5813 ~~3.2-4112~~ 4.1-600.

5814 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
5815 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
5816 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
5817 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device
5818 and any substances that may be aerosolized or vaporized by such device, whether or not the substance
5819 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),
5820 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling
5821 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that

5822 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms
 5823 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such
 5824 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

5825 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for
 5826 smoking in a manner similar to a cigarette or cigar.

5827 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

5828 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the
 5829 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to
 5830 § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such
 5831 obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth,
 5832 witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a
 5833 Class 1 misdemeanor.

5834 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 5835 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any
 5836 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
 5837 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
 5838 misdemeanor.

5839 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,
 5840 magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer, lawfully
 5841 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court
 5842 relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of § 18.2-248.1,~~
 5843 ~~or~~ §, 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony
 5844 offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

5845 D. Any person who knowingly and willfully makes any materially false statement or representation to a
 5846 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of
 5847 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

5848 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully
 5849 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,
 5850 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement
 5851 officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person
 5852 that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place
 5853 the person under arrest, and (b) a reasonable person who receives such communication knows or should know
 5854 that he is not free to leave.

5855 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

5856 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,
 5857 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the
 5858 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
 5859 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled
 5860 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 ~~or marijuana~~
 5861 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or
 5862 conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
 5863 explosives of any nature is guilty of a Class 3 felony.

5864 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

5865 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
 5866 **authorizing interception of communications.**

5867 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
 5868 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in
 5869 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of
 5870 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by
 5871 the Department of State Police, when such interception may reasonably be expected to provide evidence of
 5872 the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of
 5873 § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony
 5874 violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.),
 5875 Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in
 5876 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing
 5877 offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the
 5878 observation or monitoring of the interception by a police department of a county or city, by a sheriff's office,
 5879 or by law-enforcement officers of the United States. Such application shall be made, and such order may be
 5880 granted, in conformity with the provisions of § 19.2-68.

5881 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

5882 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall
 5883 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that

5884 an offense was committed, is being committed, or will be committed or the person or persons whose
5885 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,
5886 maintain an address or a post office box, or are making the communication within the territorial jurisdiction
5887 of the court.

5888 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the
5889 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
5890 offense was committed, is being committed, or will be committed or the physical location of the oral
5891 communication to be intercepted is within the territorial jurisdiction of the court.

5892 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire
5893 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where
5894 the order is entered, regardless of the physical location or the method by which the communication is
5895 captured or routed to the monitoring location.

5896 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

5897 A. The following officers shall have the powers of arrest as provided in this section:

5898 1. Members of the State Police force of the Commonwealth;

5899 2. Sheriffs of the various counties and cities, and their deputies;

5900 3. Members of any county police force or any duly constituted police force of any city or town of the
5901 Commonwealth;

5902 4. The Commissioner, members and employees of the Marine Resources Commission granted the power
5903 of arrest pursuant to § 28.2-900;

5904 5. Regular conservation police officers appointed pursuant to § 29.1-200;

5905 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty
5906 officers authorized under § 29.1-205 to make arrests;

5907 7. Conservation officers appointed pursuant to § 10.1-115;

5908 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed
5909 pursuant to § 46.2-217;

5910 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*
5911 *Authority*;

5912 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

5913 11. Members of the Division of Capitol Police.

5914 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the
5915 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a
5916 felony not in his presence.

5917 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of
5918 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a
5919 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an
5920 order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another
5921 officer, who may obtain a warrant based upon statements made to him by the arresting officer.

5922 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in
5923 § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such
5924 accident has been transported, or in the apprehension of any person charged with the theft of any motor
5925 vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based
5926 upon personal investigation, including information obtained from eyewitnesses, that a crime has been
5927 committed by any person then and there present, apprehend such person without a warrant of arrest. For
5928 purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or
5929 person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the
5930 clearing of the highway or to ensure the safety of the motoring public.

5931 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location
5932 any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft
5933 or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of
5934 § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether
5935 or not the offense was committed in such officer's presence. Such officers may, within three hours of the
5936 alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to
5937 suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4,
5938 whether or not the offense was committed in such officer's presence.

5939 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another
5940 jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile
5941 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer
5942 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably
5943 accurate description of such person wanted and the crime alleged.

5944 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in
5945 his presence when the officer receives a radio message from his department or other law-enforcement agency

5946 within the Commonwealth that a warrant or capias for such offense is on file.

5947 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their
5948 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)
5949 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a
5950 firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such
5951 property is located on premises used for business or commercial purposes, or a similar local ordinance, when
5952 any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged
5953 offense. The arresting officer may issue a summons to any person arrested under this section for a
5954 misdemeanor violation involving shoplifting.

5955 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

5956 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,
5957 persons for crimes involving:

5958 (a)-1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;

5959 (b)-2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;

5960 (c)-3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1; and

5961 (d)-4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or
5962 security of the population of a correctional institution.

5963 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

5964 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer
5965 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or
5966 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other
5967 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an
5968 equivalent offense in another state, shall file a report of such arrest with the division safety official designated
5969 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as
5970 practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this
5971 subsection shall be utilized by the local school division solely to implement the provisions of subsection B of
5972 § 22.1-296.2 and § 22.1-315.

5973 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via
5974 certified mail, return receipt requested, to the mailing address identified by the division superintendent
5975 pursuant to subsection F of § 22.1-279.8 or (ii) via email to the email address identified by the division
5976 superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in
5977 the case file.

5978 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to Virginia
5979 Employment Commission records, each arresting official shall request in writing that the Virginia
5980 Employment Commission provide the name of the current employer of each person arrested for an offense set
5981 forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

5982 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer
5983 or conservator of the peace having the power to arrest for a felony shall file a report, as soon as practicable,
5984 with the division superintendent of the school division in which the student is enrolled upon arresting a
5985 person who is known or discovered by the arresting official to be a student age 18 or older in any local school
5986 division in the Commonwealth for:

5987 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et
5988 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

5989 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

5990 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
5991 18.2;

5992 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5993 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
5994 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

5995 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11 (§ 18.2-247 4.1-1100 et~~
5996 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~

5997 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

5998 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

5999 9. Robbery pursuant to § 18.2-58;

6000 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

6001 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

6002 12. An act of violence by a mob pursuant to § 18.2-42.1; or

6003 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

6004 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

6005 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1
6006 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer
6007 shall be permitted to testify as to the results of field tests that have been approved by the Department of

6008 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act
 6009 (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is
 6010 a controlled substance; or imitation controlled substance, as defined in § 18.2-247, or marijuana, as defined in
 6011 § ~~18.2-247~~ 4.1-600.

6012 B. In any trial for a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer shall be
 6013 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the
 6014 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative
 6015 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue,
 6016 is marijuana provided the defendant has been given written notice of his right to request a full chemical
 6017 analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the
 6018 defendant prior to trial.

6019 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or the
 6020 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by
 6021 motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon
 6022 such motion, the court shall order that the analysis be performed by the Department of Forensic Science in
 6023 accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order the method of custody,
 6024 transfer, and return of evidence submitted for chemical analysis.

6025 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

6026 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
 6027 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the
 6028 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an
 6029 act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any
 6030 violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2,
 6031 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially
 6032 similar offense in any other jurisdiction, which offense would be a felony if committed in the
 6033 Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a
 6034 principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In
 6035 determining whether the defendant has provided substantial assistance pursuant to the provisions of this
 6036 section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's
 6037 assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the
 6038 truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the
 6039 nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the
 6040 defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If
 6041 the motion is made more than one year after entry of the final judgment order, the court may reduce a
 6042 sentence only if the defendant's substantial assistance involved (1) information not known to the defendant
 6043 until more than one year after entry of the final judgment order, (2) information provided by the defendant
 6044 within one year of entry of the final judgment order but that did not become useful to the Commonwealth
 6045 until more than one year after entry of the final judgment order, or (3) information the usefulness of which
 6046 could not reasonably have been anticipated by the defendant until more than one year after entry of the final
 6047 judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness
 6048 was reasonably apparent.

6049 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

6050 A. The following property shall be subject to lawful seizure by any officer charged with enforcing the
 6051 provisions of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of
 6052 Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all
 6053 other personal and real property of any kind or character, used in substantial connection with (a) the illegal
 6054 manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute
 6055 controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana or possession with
 6056 intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (e) of § ~~18.2-248.1~~ § 4.1-1103, or
 6057 (c) a drug-related offense in violation of § ~~4.1-1117~~ or 18.2-474.1; (ii) everything of value furnished, or
 6058 intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in
 6059 violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in violation of § ~~4.1-1117~~ or
 6060 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together
 6061 with any interest or profits derived from the investment of such money or other property. Under the
 6062 provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed
 6063 punishment for the violation is a term of not less than five years.

6064 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter
 6065 22.1 (§ 19.2-386.1 et seq.).

6066 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

6067 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
 6068 possession of which is not established or the title to which cannot be ascertained, which have come into the
 6069 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et

6070 *seq.* of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

6071 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,
6072 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such
6073 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such
6074 police department or sheriff's office for research and training purposes and for destruction pursuant to
6075 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of
6076 Pharmacy once these purposes have been fulfilled.

6077 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such
6078 substances or paraphernalia, which order shall state the existence and nature of the substance or
6079 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance
6080 or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the
6081 court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be
6082 given to a person or entity that makes a showing to the court of sufficient need for the property and an ability
6083 to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and
6084 manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the
6085 order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or
6086 paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event
6087 a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such
6088 substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement
6089 officer of the agency or his designee may, with the written consent of the appropriate attorney for the
6090 Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of
6091 the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the
6092 chief law-enforcement officer by the officer to whom the order is directed.

6093 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*
6094 (*§ 4.1-1100 et seq.*) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as
6095 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

6096 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any
6097 law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or
6098 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation
6099 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting
6100 agency's exceeding the limits allowed by this subsection.

6101 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
6102 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of
6103 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)
6104 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training
6105 purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement
6106 officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the
6107 substances that were used for research and training pursuant to a court order in the immediately preceding
6108 fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under
6109 oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

6110 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

6111 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with
6112 any prosecution or investigation under *Chapter 11* (*§ 4.1-1100 et seq.*) of Title 4.1 or Chapter 7 (§ 18.2-247 et
6113 seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly
6114 selected from the seized substance for representative purposes as evidence and destroy the remainder of the
6115 seized substance.

6116 Before any destruction is carried out under this section, the law-enforcement agency shall cause the
6117 material seized to be photographed with identification case numbers or other means of identification and shall
6118 prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if
6119 known, or his attorney, at least five days in advance that the photography will take place and that they may be
6120 present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused
6121 or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and
6122 place the destruction will occur. Any notice required under the provisions of this section shall be by first-
6123 class mail to the last known address of the person required to be notified. In addition to the substance retained
6124 for representative purposes as evidence, all photographs and records made under this section and properly
6125 identified shall be admissible in any court proceeding for any purposes for which the seized substance itself
6126 would have been admissible.

6127 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
6128 **substances, etc.**

6129 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take
6130 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation
6131 controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution

6132 under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2.* The court in
6133 its order may make provision for ensuring integrity of these items until further order of the court.

6134 **§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

6135 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
6136 only to:

6137 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
6138 the administration of criminal justice and the screening of an employment application or review of
6139 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
6140 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
6141 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of
6142 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this
6143 subdivision, criminal history record information includes information sent to the Central Criminal Records
6144 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
6145 of the State Police, a police department or sheriff's office that is a part of or administered by the
6146 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
6147 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
6148 the administration of criminal justice;

6149 2. Such other individuals and agencies that require criminal history record information to implement a
6150 state or federal statute or executive order of the President of the United States or Governor that expressly
6151 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except
6152 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice
6153 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the
6154 charge has been recorded and no active prosecution of the charge is pending;

6155 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
6156 services required for the administration of criminal justice pursuant to that agreement which shall specifically
6157 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
6158 confidentiality of the data;

6159 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
6160 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
6161 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

6162 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
6163 of the President of the United States or Governor to conduct investigations determining employment
6164 suitability or eligibility for security clearances allowing access to classified information;

6165 6. Individuals and agencies where authorized by court order or court rule;

6166 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
6167 operated or controlled by any political subdivision, and any public service corporation that operates a public
6168 transit system owned by a local government for the conduct of investigations of applicants for employment,
6169 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a
6170 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible
6171 with the nature of the employment, permit, or license under consideration;

6172 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
6173 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position
6174 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
6175 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction
6176 record would be compatible with the nature of the employment under consideration;

6177 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
6178 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of
6179 that individual's household, with whom the agency is considering placing a child or from whom the agency is
6180 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis
6181 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further
6182 disseminated to any party other than a federal or state authority or court as may be required to comply with an
6183 express requirement of law;

6184 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
6185 the conduct of investigations of applicants for employment when such employment involves personal contact
6186 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
6187 employment under consideration;

6188 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
6189 including, but not limited to, issuing visas and passports;

6190 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
6191 his cost, except that criminal history record information shall be supplied at no charge to a person who has
6192 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
6193 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,

6194 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
 6195 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
 6196 § 15.2-1713.1;

6197 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
 6198 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
 6199 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
 6200 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
 6201 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
 6202 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
 6203 Services' representative or a federal or state authority or court as may be required to comply with an express
 6204 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
 6205 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
 6206 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
 6207 § 22.1-289.035 or § 22.1-289.039;

6208 13. The Department of Social Services for the purpose of screening individuals as a condition of licensure,
 6209 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency
 6210 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency
 6211 pursuant to § 63.2-901.1;

6212 14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
 6213 who accept public school employment and those current school board employees for whom a report of arrest
 6214 has been made pursuant to § 19.2-83.1;

6215 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
 6216 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the
 6217 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
 6218 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

6219 16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
 6220 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
 6221 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
 6222 limitations set out in subsection E;

6223 17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of
 6224 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers
 6225 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

6226 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
 6227 § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in
 6228 § 4.1-622;

6229 19. The State Board of Elections and authorized officers and employees thereof and general registrars
 6230 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
 6231 registration, limited to any record of felony convictions;

6232 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
 6233 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
 6234 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,
 6235 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
 6236 evaluation, treatment, or discharge planning;

6237 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
 6238 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
 6239 § 18.2-51.4, 18.2-266, or 18.2-266.1;

6240 22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
 6241 Department of Education, or the Department of Behavioral Health and Developmental Services for the
 6242 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

6243 23. The Department of Behavioral Health and Developmental Services and facilities operated by the
 6244 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
 6245 instructions;

6246 24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
 6247 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
 6248 information on behalf of such governing boards or administrators pursuant to a written agreement with the
 6249 Department of State Police;

6250 25. Public institutions of higher education and nonprofit private institutions of higher education for the
 6251 purpose of screening individuals who are offered or accept employment;

6252 26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
 6253 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
 6254 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
 6255 to safety; however, no member of a threat assessment team shall redisclose any criminal history record

6256 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
6257 that such disclosure was made to the threat assessment team;

6258 27. Executive directors of community services boards or the personnel director serving the community
6259 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
6260 residential service provider, permission to enter into a shared living arrangement with a person receiving
6261 medical assistance services pursuant to a waiver, or permission for any person under contract with the
6262 community services board to serve in a direct care position on behalf of the community services board
6263 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

6264 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
6265 determining an individual's fitness for employment, approval as a sponsored residential service provider,
6266 permission to enter into a shared living arrangement with a person receiving medical assistance services
6267 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
6268 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
6269 37.2-506.1, and 37.2-607;

6270 29. The Commissioner of Social Services for the purpose of locating persons who owe child support or
6271 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,
6272 address, demographics and social security number of the data subject shall be released;

6273 30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
6274 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose
6275 of determining if any applicant who accepts employment in any direct care position or requests approval as a
6276 sponsored residential service provider, permission to enter into a shared living arrangement with a person
6277 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with
6278 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have
6279 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
6280 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

6281 31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
6282 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
6283 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

6284 32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee
6285 for Courts of Justice for the purpose of determining if any person being considered for election to any
6286 judgeship has been convicted of a crime;

6287 33. Heads of state agencies in which positions have been identified as sensitive for the purpose of
6288 determining an individual's fitness for employment in positions designated as sensitive under Department of
6289 Human Resource Management policies developed pursuant to § 2.2-1201.1;

6290 34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
6291 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
6292 Predators Act (§ 37.2-900 et seq.);

6293 35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
6294 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for
6295 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased
6296 laborers, and other visitors;

6297 36. Any employer of individuals whose employment requires that they enter the homes of others, for the
6298 purpose of screening individuals who apply for, are offered, or have accepted such employment;

6299 37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
6300 of adult foster care and home-based services or (ii) any individual with whom the agency is considering
6301 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the
6302 restriction that the data shall not be further disseminated by the agency to any party other than a federal or
6303 state authority or court as may be required to comply with an express requirement of law for such further
6304 dissemination, subject to limitations set out in subsection G;

6305 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening
6306 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
6307 have accepted a position related to the provision of transportation services to enrollees in the Medicaid
6308 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
6309 administered by the Department of Medical Assistance Services;

6310 39. The State Corporation Commission for the purpose of investigating individuals who are current or
6311 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
6312 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.
6313 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
6314 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
6315 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
6316 or its designee;

6317 40. The Department of Professional and Occupational Regulation for the purpose of investigating

6318 individuals for initial licensure pursuant to § 54.1-2106.1;
 6319 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
 6320 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
 6321 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
 6322 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
 6323 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;
 6324 43. The State Treasurer for the purpose of determining whether a person receiving compensation for
 6325 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
 6326 44. The Department of Education or its agents or designees for the purpose of screening individuals
 6327 seeking to enter into a contract with the Department of Education or its agents or designees for the provision
 6328 of child care services for which child care subsidy payments may be provided;
 6329 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
 6330 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
 6331 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
 6332 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
 6333 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;
 6334 47. Administrators and board presidents of and applicants for licensure or registration as a child day
 6335 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
 6336 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
 6337 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
 6338 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility
 6339 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or
 6340 a federal or state authority or court as may be required to comply with an express requirement of law for such
 6341 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent
 6342 of Public Instruction's representative from issuing written certifications regarding the results of prior
 6343 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;
 6344 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who
 6345 are offered or accept employment or will be providing volunteer or contractual services with the National
 6346 Center for Missing and Exploited Children;
 6347 49. The Executive Director or investigators of the Board of Accountancy for the purpose of the
 6348 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and
 6349 50. Other entities as otherwise provided by law.
 6350 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
 6351 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
 6352 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
 6353 whom a report has been made under the provisions of this chapter.
 6354 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
 6355 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
 6356 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy
 6357 of conviction data covering the person named in the request to the person making the request; however, such
 6358 person on whom the data is being obtained shall consent in writing, under oath, to the making of such
 6359 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as
 6360 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making
 6361 the request shall be furnished at his cost a certification to that effect.
 6362 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
 6363 section shall be limited to the purposes for which it was given and may not be disseminated further, except as
 6364 otherwise provided in subdivision A 47.
 6365 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
 6366 record information for employment or licensing inquiries except as provided by law.
 6367 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
 6368 prior to dissemination of any criminal history record information on offenses required to be reported to the
 6369 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.
 6370 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the
 6371 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal
 6372 justice agency to whom a request has been made for the dissemination of criminal history record information
 6373 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the
 6374 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses
 6375 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the
 6376 record as required by § 15.2-1722.
 6377 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
 6378 organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for
 6379 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

6380 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
6381 centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any
6382 offense specified in § 63.2-1720.

6383 G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited
6384 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
6385 crime in § 19.2-392.02.

6386 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
6387 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
6388 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
6389 request to the employer or prospective employer making the request, provided that the person on whom the
6390 data is being obtained has consented in writing to the making of such request and has presented a photo-
6391 identification to the employer or prospective employer. In the event no conviction data is maintained on the
6392 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a
6393 certification to that effect. The criminal history record search shall be conducted on forms provided by the
6394 Exchange.

6395 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal
6396 history record information, including criminal history record information maintained in the National Crime
6397 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his
6398 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal
6399 history record information provided under this subsection shall be disseminated further.

6400 **§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.**

6401 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
6402 only to:

6403 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
6404 the administration of criminal justice and the screening of an employment application or review of
6405 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
6406 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
6407 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of
6408 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this
6409 subdivision, criminal history record information includes information sent to the Central Criminal Records
6410 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
6411 of the State Police, a police department or sheriff's office that is a part of or administered by the
6412 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
6413 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
6414 the administration of criminal justice;

6415 2. Such other individuals and agencies that require criminal history record information to implement a
6416 state or federal statute or executive order of the President of the United States or Governor that expressly
6417 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except
6418 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice
6419 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the
6420 charge has been recorded and no active prosecution of the charge is pending;

6421 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
6422 services required for the administration of criminal justice pursuant to that agreement which shall specifically
6423 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
6424 confidentiality of the data;

6425 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
6426 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
6427 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

6428 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
6429 of the President of the United States or Governor to conduct investigations determining employment
6430 suitability or eligibility for security clearances allowing access to classified information;

6431 6. Individuals and agencies where authorized by court order or court rule;

6432 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
6433 operated or controlled by any political subdivision, and any public service corporation that operates a public
6434 transit system owned by a local government for the conduct of investigations of applicants for employment,
6435 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a
6436 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible
6437 with the nature of the employment, permit, or license under consideration;

6438 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
6439 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position
6440 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
6441 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction

6442 record would be compatible with the nature of the employment under consideration;

6443 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
 6444 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of
 6445 that individual's household, with whom the agency is considering placing a child or from whom the agency is
 6446 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis
 6447 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further
 6448 disseminated to any party other than a federal or state authority or court as may be required to comply with an
 6449 express requirement of law;

6450 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
 6451 the conduct of investigations of applicants for employment when such employment involves personal contact
 6452 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
 6453 employment under consideration;

6454 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
 6455 including, but not limited to, issuing visas and passports;

6456 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
 6457 his cost, except that criminal history record information shall be supplied at no charge to a person who has
 6458 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
 6459 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
 6460 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
 6461 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
 6462 § 15.2-1713.1;

6463 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
 6464 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
 6465 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
 6466 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
 6467 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
 6468 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
 6469 Services' representative or a federal or state authority or court as may be required to comply with an express
 6470 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
 6471 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
 6472 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
 6473 § 22.1-289.035 or § 22.1-289.039;

6474 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended
 6475 care center for dissemination to the State Health Commissioner's representative pursuant to
 6476 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and
 6477 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be
 6478 further disseminated by the center to any party other than the data subject, the State Health Commissioner's
 6479 representative, or a federal or state authority or court as may be required to comply with an express
 6480 requirement of law;

6481 14. The Department of Social Services for the purpose of screening individuals as a condition of licensure,
 6482 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency
 6483 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency
 6484 pursuant to § 63.2-901.1;

6485 15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
 6486 who accept public school employment and those current school board employees for whom a report of arrest
 6487 has been made pursuant to § 19.2-83.1;

6488 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
 6489 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the
 6490 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
 6491 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

6492 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for
 6493 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to
 6494 § 32.1-162.15:1.17;

6495 18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
 6496 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
 6497 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
 6498 limitations set out in subsection E;

6499 19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of
 6500 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers
 6501 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

6502 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
 6503 § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in

6504 § 4.1-622;

6505 21. The State Board of Elections and authorized officers and employees thereof and general registrars
6506 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
6507 registration, limited to any record of felony convictions;

6508 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
6509 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
6510 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,
6511 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
6512 evaluation, treatment, or discharge planning;

6513 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
6514 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
6515 § 18.2-51.4, 18.2-266, or 18.2-266.1;

6516 24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
6517 Department of Education, or the Department of Behavioral Health and Developmental Services for the
6518 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

6519 25. The Department of Behavioral Health and Developmental Services and facilities operated by the
6520 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
6521 instructions;

6522 26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
6523 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
6524 information on behalf of such governing boards or administrators pursuant to a written agreement with the
6525 Department of State Police;

6526 27. Public institutions of higher education and nonprofit private institutions of higher education for the
6527 purpose of screening individuals who are offered or accept employment;

6528 28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
6529 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
6530 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
6531 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
6532 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
6533 that such disclosure was made to the threat assessment team;

6534 29. Executive directors of community services boards or the personnel director serving the community
6535 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
6536 residential service provider, permission to enter into a shared living arrangement with a person receiving
6537 medical assistance services pursuant to a waiver, or permission for any person under contract with the
6538 community services board to serve in a direct care position on behalf of the community services board
6539 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

6540 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
6541 determining an individual's fitness for employment, approval as a sponsored residential service provider,
6542 permission to enter into a shared living arrangement with a person receiving medical assistance services
6543 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
6544 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
6545 37.2-506.1, and 37.2-607;

6546 31. The Commissioner of Social Services for the purpose of locating persons who owe child support or
6547 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,
6548 address, demographics and social security number of the data subject shall be released;

6549 32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
6550 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose
6551 of determining if any applicant who accepts employment in any direct care position or requests approval as a
6552 sponsored residential service provider, permission to enter into a shared living arrangement with a person
6553 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with
6554 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have
6555 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
6556 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

6557 33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
6558 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
6559 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

6560 34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee
6561 for Courts of Justice for the purpose of determining if any person being considered for election to any
6562 judgeship has been convicted of a crime;

6563 35. Heads of state agencies in which positions have been identified as sensitive for the purpose of
6564 determining an individual's fitness for employment in positions designated as sensitive under Department of
6565 Human Resource Management policies developed pursuant to § 2.2-1201.1;

6566 36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
 6567 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
 6568 Predators Act (§ 37.2-900 et seq.);

6569 37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
 6570 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for
 6571 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased
 6572 laborers, and other visitors;

6573 38. Any employer of individuals whose employment requires that they enter the homes of others, for the
 6574 purpose of screening individuals who apply for, are offered, or have accepted such employment;

6575 39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
 6576 of adult foster care and home-based services or (ii) any individual with whom the agency is considering
 6577 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the
 6578 restriction that the data shall not be further disseminated by the agency to any party other than a federal or
 6579 state authority or court as may be required to comply with an express requirement of law for such further
 6580 dissemination, subject to limitations set out in subsection G;

6581 40. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 6582 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
 6583 have accepted a position related to the provision of transportation services to enrollees in the Medicaid
 6584 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
 6585 administered by the Department of Medical Assistance Services;

6586 41. The State Corporation Commission for the purpose of investigating individuals who are current or
 6587 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
 6588 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§ 6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.
 6589 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
 6590 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
 6591 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
 6592 or its designee;

6593 42. The Department of Professional and Occupational Regulation for the purpose of investigating
 6594 individuals for initial licensure pursuant to § 54.1-2106.1;

6595 43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
 6596 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
 6597 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
 6598 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

6599 44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

6600 45. The State Treasurer for the purpose of determining whether a person receiving compensation for
 6601 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

6602 46. The Department of Education or its agents or designees for the purpose of screening individuals
 6603 seeking to enter into a contract with the Department of Education or its agents or designees for the provision
 6604 of child care services for which child care subsidy payments may be provided;

6605 47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
 6606 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
 6607 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

6608 48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
 6609 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

6610 49. Administrators and board presidents of and applicants for licensure or registration as a child day
 6611 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
 6612 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
 6613 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
 6614 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility
 6615 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or
 6616 a federal or state authority or court as may be required to comply with an express requirement of law for such
 6617 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent
 6618 of Public Instruction's representative from issuing written certifications regarding the results of prior
 6619 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

6620 50. The National Center for Missing and Exploited Children for the purpose of screening individuals who
 6621 are offered or accept employment or will be providing volunteer or contractual services with the National
 6622 Center for Missing and Exploited Children;

6623 51. The Executive Director or investigators of the Board of Accountancy for the purpose of the
 6624 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

6625 52. Other entities as otherwise provided by law.

6626 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
 6627 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange

6628 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
6629 whom a report has been made under the provisions of this chapter.

6630 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
6631 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
6632 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy
6633 of conviction data covering the person named in the request to the person making the request; however, such
6634 person on whom the data is being obtained shall consent in writing, under oath, to the making of such
6635 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as
6636 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making
6637 the request shall be furnished at his cost a certification to that effect.

6638 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
6639 section shall be limited to the purposes for which it was given and may not be disseminated further, except as
6640 otherwise provided in subdivision A 49.

6641 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
6642 record information for employment or licensing inquiries except as provided by law.

6643 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
6644 prior to dissemination of any criminal history record information on offenses required to be reported to the
6645 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.
6646 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the
6647 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal
6648 justice agency to whom a request has been made for the dissemination of criminal history record information
6649 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the
6650 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses
6651 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the
6652 record as required by § 15.2-1722.

6653 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
6654 organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for
6655 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

6656 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
6657 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any
6658 offense specified in § 63.2-1720.

6659 G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited
6660 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
6661 crime in § 19.2-392.02.

6662 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
6663 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
6664 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
6665 request to the employer or prospective employer making the request, provided that the person on whom the
6666 data is being obtained has consented in writing to the making of such request and has presented a photo-
6667 identification to the employer or prospective employer. In the event no conviction data is maintained on the
6668 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a
6669 certification to that effect. The criminal history record search shall be conducted on forms provided by the
6670 Exchange.

6671 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal
6672 history record information, including criminal history record information maintained in the National Crime
6673 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his
6674 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal
6675 history record information provided under this subsection shall be disseminated further.

6676 **§ 19.2-389.3. (Repealed effective July 1, 2026) Marijuana possession; limits on dissemination of**
6677 **criminal history record information; prohibited practices by employers, educational institutions, and**
6678 **state and local governments; penalty.**

6679 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of
6680 *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* §
6681 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the
6682 Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided
6683 that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of
6684 eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report
6685 prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter
6686 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the
6687 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local
6688 community-based probation services agencies established pursuant to the Comprehensive Community
6689 Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult

6690 local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for
 6691 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System
 6692 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to
 6693 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines
 6694 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State
 6695 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any
 6696 political subdivision thereof, and who is responsible for the prevention and detection of crime and the
 6697 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration
 6698 of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research
 6699 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's
 6700 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the
 6701 purpose of screening any person for full-time or part-time employment with the State Police or a police
 6702 department or sheriff's office that is a part of or administered by the Commonwealth or any political
 6703 subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any
 6704 person who applies to be a volunteer with or an employee of an emergency medical services agency as
 6705 provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science
 6706 for the purpose of screening any person for full-time or part-time employment with the Department of
 6707 Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an
 6708 individual employed as a public safety official of the locality, that has adopted an ordinance in accordance
 6709 with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with
 6710 or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any
 6711 full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in
 6712 § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the
 6713 regulations of the Federal Motor Carrier Safety Administration.

6714 B. An employer or educational institution shall not, in any application, interview, or otherwise, require an
 6715 applicant for employment or admission to disclose information concerning any arrest, criminal charge, or
 6716 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for
 6717 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
 6718 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
 6719 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for
 6720 public inspection pursuant to subsection A.

6721 C. Agencies, officials, and employees of the state and local governments shall not, in any application,
 6722 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to
 6723 disclose information concerning any arrest, criminal charge, or conviction against him when the record
 6724 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection
 6725 A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction,
 6726 include a reference to or information concerning any arrest, criminal charge, or conviction when the record
 6727 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection
 6728 A. Such an application may not be denied solely because of the applicant's refusal to disclose information
 6729 concerning any such arrest, criminal charge, or conviction.

6730 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
 6731 violation.

6732 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**
 6733 **employees or volunteers providing care to children or the elderly or disabled.**

6734 A. For purposes of this section:

6735 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
 6736 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony
 6737 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or
 6738 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3;
 6739 any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52,
 6740 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,
 6741 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony
 6742 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,
 6743 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3,
 6744 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or
 6745 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or
 6746 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of
 6747 § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any
 6748 violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1,
 6749 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3,
 6750 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any
 6751 violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2,

6752 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484,
 6753 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction;
 6754 (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar
 6755 offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248,
 6756 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,
 6757 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of
 6758 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the
 6759 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to
 6760 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any
 6761 finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.)
 6762 of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the
 6763 Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense
 6764 under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes
 6765 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)
 6766 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date
 6767 of the conviction.

6768 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
 6769 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
 6770 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of
 6771 the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of
 6772 the charge, and any other information that may be useful in identifying persons arrested for or convicted of a
 6773 barrier crime.

6774 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation
 6775 to children or the elderly or disabled.

6776 "Department" means the Department of State Police.

6777 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
 6778 to volunteer for a qualified entity.

6779 "Identification document" means a document made or issued by or under the authority of the United
 6780 States government, a state, a political subdivision of a state, a foreign government, political subdivision of a
 6781 foreign government, an international governmental or an international quasi-governmental organization that,
 6782 when completed with information concerning a particular individual, is of a type intended or commonly
 6783 accepted for the purpose of identification of individuals.

6784 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
 6785 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
 6786 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
 6787 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

6788 "Qualified entity" means a business or organization that provides care to children or the elderly or
 6789 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
 6790 pursuant to subdivision A 7 of § 22.1-289.030.

6791 B. A qualified entity may request the Department of State Police to conduct a national criminal
 6792 background check on any provider who is employed by such entity. No qualified entity may request a
 6793 national criminal background check on a provider until such provider has:

6794 1. Been fingerprinted; and

6795 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
 6796 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has
 6797 ever been convicted of or is the subject of pending charges for a criminal offense within or outside the
 6798 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the
 6799 particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv)
 6800 a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the
 6801 accuracy and completeness of any information contained in any such report, and to obtain a prompt
 6802 determination as to the validity of such challenge before a final determination is made by the Department;
 6803 and (v) a notice to the provider that prior to the completion of the background check the qualified entity may
 6804 choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified
 6805 entity provides care.

6806 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
 6807 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the
 6808 Department shall make a determination whether the provider has been convicted of or is the subject of
 6809 charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information,
 6810 the Department shall access the national criminal history background check system, which is maintained by
 6811 the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall
 6812 access the Central Criminal Records Exchange maintained by the Department. If the Department receives a
 6813 background report lacking disposition data, the Department shall conduct research in whatever state and local

6814 recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable
6815 efforts to respond to a qualified entity's inquiry within 15 business days.

6816 D. Any background check conducted pursuant to this section for a provider employed by a private entity
6817 shall be screened by the Department of State Police. If the provider has been convicted of or is under
6818 indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work
6819 or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

6820 E. Any background check conducted pursuant to this section for a provider employed by a governmental
6821 entity shall be provided to that entity.

6822 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
6823 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
6824 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
6825 fingerprints.

6826 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
6827 negligence per se in any civil action.

6828 **§ 19.2-392.6. (Effective July 1, 2026) Automatic sealing of offenses resulting in conviction.**

6829 A. If a person was convicted of a violation of any of the following sections with an offense date on or
6830 after January 1, 1986, such conviction, including any records relating to such conviction, shall be ordered to
6831 be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and
6832 C: a misdemeanor violation of § 18.2-96 or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor
6833 violation of *former* § 18.2-248.1; or § 18.2-415.

6834 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to
6835 be automatically sealed if seven years have passed since the date of the conviction and the person convicted
6836 of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the
6837 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of
6838 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during
6839 that time period.

6840 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the conviction,
6841 the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

6842 This section shall not be construed as prohibiting a person from seeking sealing in the circuit court
6843 pursuant to the provisions of § 19.2-392.12 or 19.2-392.12:1.

6844 **§ 19.2-392.12:1. (Effective July 1, 2026) Sealing of charges and convictions related to automatic
6845 sealing; petition.**

6846 A. A person who has been convicted of or had a charge deferred and dismissed for a violation of
6847 § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or
6848 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a
6849 violation of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file
6850 a petition setting forth the relevant facts and requesting the sealing of the criminal history record information
6851 and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or
6852 conviction, such petition may also request the sealing of any specifically identified ancillary matter related to
6853 such charge or conviction.

6854 B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7 or 19.2-392.11
6855 where the offense date for such conviction or offense was on or after January 1, 1986, or who had an offense
6856 sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition setting forth the
6857 relevant facts and requesting sealing of the criminal history record information and court records of any
6858 specifically identified ancillary matter related to that charge or conviction.

6859 C. A person shall not be required to pay any court fees or costs for filing a petition pursuant to this
6860 section.

6861 D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if
6862 reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of
6863 and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the arresting
6864 agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary matter; and (iv)
6865 the case number associated with each court record that is the subject of the petition. When this information is
6866 not reasonably available, the petition shall state the reason for such unavailability. The petition shall further
6867 state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final disposition of the charge,
6868 conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date of birth, sex, race, and social
6869 security number, if available; and (d) the full name used by the petitioner at the time of arrest or summons. A
6870 petition may request the sealing of the criminal history record information and court records for multiple
6871 charges, convictions, or ancillary matters as set forth in subsections A and B, provided that all such charges,
6872 convictions, and ancillary matters are eligible for sealing under this section. A petition may not request the
6873 sealing of the criminal history record information and court records where the charge, conviction, or ancillary
6874 matter was finalized on the same date as a conviction or deferred dismissal that is not eligible for sealing
6875 under this section.

6876 E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within
6877 his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum
6878 of two petitions set forth in § 19.2-392.12.

6879 F. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the
6880 petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the
6881 Commonwealth of the county or city in which the petition is filed. The attorney for the Commonwealth may
6882 file an objection or answer to the petition or may give written notice to the court that he does not object to the
6883 petition within 30 days after it is delivered to him or received in the mail.

6884 G. In addition to the filing of the petition under subsection D, the petitioner shall request that the Central
6885 Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and national
6886 criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the
6887 CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to
6888 receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which
6889 shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the
6890 hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of
6891 the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal
6892 as provided by law in civil cases.

6893 H. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the
6894 petition.

6895 I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the
6896 records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed
6897 since the date of conviction or of dismissal of the deferred charge listed in subsection A and the petitioner has
6898 not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal
6899 Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the
6900 United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

6901 J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter if
6902 the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, or
6903 19.2-392.11.

6904 K. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives
6905 written notice to the court pursuant to subsection F that he does not object to the petition and (ii) stipulates in
6906 such written notice that the petitioner is eligible to have such charge, conviction, or ancillary matter sealed,
6907 the court may enter an order of sealing without conducting a hearing.

6908 L. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

6909 M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under
6910 seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police.
6911 Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and social
6912 security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons; (iii)
6913 the petitioner's state identification number from the criminal history record; (iv) the court case number of the
6914 charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number, if
6915 available. The Department of State Police shall validate the accuracy of any criminal history record ordered
6916 to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon
6917 receipt of such electronic notification, the Department of State Police shall seal such records in accordance
6918 with § 19.2-392.13. The Department of State Police shall also electronically notify the Office of the
6919 Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to
6920 have obtained such a record that such record has been ordered to be sealed and may only be disseminated in
6921 accordance with § 19.2-392.13.

6922 N. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth
6923 in this section or (ii) the court entered an order for the sealing of records contrary to law shall be voidable
6924 upon motion and notice made within two years of the entry of such order.

6925 O. A petition filed under this section and any responsive pleadings filed by the attorney for the
6926 Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order
6927 to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth
6928 in § 19.2-392.13.

6929 P. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge,
6930 conviction, or ancillary matter under this section when such charge, conviction, or ancillary matter is eligible
6931 for sealing under some other section of this chapter.

6932 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp**
6933 **products intended for smoking, and gambling.**

6934 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by
6935 the Board of Education.

6936 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,
6937 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic

6938 Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials
 6939 to the Department of Education. The Department of Education shall review and shall distribute such materials
 6940 as are approved to the public schools.

6941 The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall
 6942 distribute to each local school division educational materials concerning the health and safety risks of using
 6943 retail tobacco products and hemp products intended for smoking, as such terms are defined in § 18.2-371.2.
 6944 Instruction concerning the health and safety risks of using *retail* tobacco products and hemp products
 6945 intended for smoking, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary
 6946 and secondary school in the Commonwealth, consistent with such educational materials.

6947 C. Instruction concerning gambling and the addictive potential thereof shall be provided by the public
 6948 schools as prescribed by the Board.

6949 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

6950 A. School boards shall expel from school attendance any student whom such school board has
 6951 determined, in accordance with the procedures set forth in this article, to have brought a controlled substance,
 6952 *or* imitation controlled substance, ~~or marijuana~~ as *those terms are* defined in § 18.2-247 onto school property
 6953 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board
 6954 may, however, determine, based on the facts of a particular situation, that special circumstances exist and no
 6955 disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board
 6956 may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of
 6957 such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations
 6958 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such
 6959 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.
 6960 Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the
 6961 particular situation.

6962 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this
 6963 section no later than three months after the date on which this act becomes effective.

6964 **§ 23.1-1301. Governing boards; powers.**

6965 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 6966 1. Make regulations and policies concerning the institution;
- 6967 2. Manage the funds of the institution and approve an annual budget;
- 6968 3. Appoint the chief executive officer of the institution;
- 6969 4. Appoint professors and fix their salaries; and
- 6970 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

6971 B. The governing board of each public institution of higher education or its designee may:

6972 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative
 6973 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has
 6974 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and
 6975 conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the
 6976 same manner as all other gifts and bequests;

6977 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes
 6978 on any property owned by the institution;

6979 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,
 6980 or controlled by the institution;

6981 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
 6982 instructors, and other employees;

6983 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the
 6984 regulations or institution policies required pursuant to § 23.1-1303;

6985 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission
 6986 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such
 6987 regulations or policies;

6988 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote
 6989 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness
 6990 and prevention of sexual crimes committed upon students;

6991 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in
 6992 accordance with the prohibition against hazing as defined in § 18.2-56;

6993 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an
 6994 interest, provided such assignment is in accordance with the terms of the institution's intellectual property
 6995 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of
 6996 such property (i) developed wholly or predominantly through the use of state general funds, exclusive of
 6997 capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned
 6998 duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship
 6999 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit

7000 organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective
7001 institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the
7002 Governor does not approve such transfer, the materials shall remain the property of the respective institutions
7003 and may be used and developed in any manner permitted by law;

7004 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
7005 electronic communication means pursuant to § 2.2-3708.3; and

7006 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to
7007 enforce state statutes and local ordinances with respect to offenses occurring on the property of the
7008 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and
7009 local ordinances with respect to offenses occurring on the property of the institution.

7010 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

7011 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,
7012 vehicle registration, certificate of title, or other document issued by the Department if such person has not
7013 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled
7014 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or
7015 altered documents.

7016 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle
7017 registration, certificate of title, or other document in violation of the provisions of subsection A.

7018 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
7019 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
7020 provisions of subsection A.

7021 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is
7022 charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any
7023 document issued by the Department for the purpose of engaging in any age-limited activity, including but not
7024 limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is
7025 charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

7026 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
7027 identification card, vehicle registration, certificate of title, or other document issued by the Department has
7028 been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of
7029 the cancellation to the address of record maintained by the Department.

7030 F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any
7031 document issued by the Department, (ii) where any person received or created any counterfeit, forged, or
7032 altered document used to obtain any document issued by the Department, or (iii) where any counterfeit,
7033 forged, or altered document has been filed with the Department.

7034 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card
7035 to obtain alcoholic beverages or marijuana; penalties.**

7036 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive
7037 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the
7038 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States
7039 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of
7040 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign
7041 government agency; or official student identification card of an institution of higher education to obtain
7042 alcoholic beverages ~~shall be~~ *or marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a
7043 violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a
7044 motor vehicle for a period of not less than 30 days nor more than one year.

7045 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales or marijuana sales.**

7046 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
7047 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic
7048 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be
7049 the operator of the establishment has allowed it to become a meeting place for persons committing serious
7050 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be
7051 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement
7052 officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of
7053 evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol
7054 *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety
7055 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the
7056 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with
7057 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the
7058 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later
7059 finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change
7060 of ownership, management, or business operations at the establishment, or other change in circumstance.

7061 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall

7062 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic
 7063 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the
 7064 activities at the establishment complained of and conduct an administrative hearing. After the Virginia
 7065 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final
 7066 determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia*
 7067 *Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without
 7068 further action by the complainant, respondent, or the court.

7069 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

7070 This section shall apply to any person who is not a qualified voter because of a felony conviction, who
 7071 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the
 7072 conditions and requirements set out in this section.

7073 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
 7074 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101,
 7075 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a
 7076 felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted
 7077 of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil
 7078 right to be eligible to register to vote through the process set out in this section. On such petition, the court
 7079 may approve the petition for restoration to the person of his right if the court is satisfied from the evidence
 7080 presented that the petitioner has completed, five or more years previously, service of any sentence and any
 7081 modification of sentence including probation, parole, and suspension of sentence; that the petitioner has
 7082 demonstrated civic responsibility through community or comparable service; and that the petitioner has been
 7083 free from criminal convictions, excluding traffic infractions, for the same period.

7084 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,
 7085 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to
 7086 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to
 7087 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall
 7088 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be
 7089 eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send,
 7090 within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate
 7091 of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's
 7092 denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no
 7093 right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the
 7094 restoration of the right or denial of restoration by the Governor.

7095 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
 7096 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

7097 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

7098 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as
 7099 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public
 7100 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"
 7101 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation
 7102 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or
 7103 relieve those suffering from any injury, deformity or disease.

7104 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
 7105 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other
 7106 remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the
 7107 healing arts within the meaning of this chapter except where persons other than physicians are required to
 7108 sign birth certificates.

7109 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing
 7110 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation
 7111 or designation, or other language that identifies the type of practice for which he is licensed. No person
 7112 regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in §
 7113 ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However,
 7114 nothing in this subsection shall prevent a person from including in any advertisement that such person is
 7115 registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written
 7116 certifications for the use of cannabis products, as defined in § 4.1-1600.

7117 **§ 54.1-3401. Definitions.**

7118 As used in this chapter, unless the context requires a different meaning:

7119 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,
 7120 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his
 7121 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the
 7122 presence of the practitioner.

7123 "Advertisement" means all representations disseminated in any manner or by any means, other than by

7124 labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of
7125 drugs or devices.

7126 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,
7127 distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or
7128 employee of the carrier or warehouseman.

7129 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to
7130 testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

7131 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

7132 "Automated drug dispensing system" means a mechanical or electronic system that performs operations or
7133 activities, other than compounding or administration, relating to pharmacy services, including the storage,
7134 dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction
7135 information, to provide security and accountability for such drugs.

7136 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component
7137 or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous
7138 product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound,
7139 applicable to the prevention, treatment, or cure of a disease or condition of human beings.

7140 "Biosimilar" means a biological product that is highly similar to a specific reference biological product,
7141 notwithstanding minor differences in clinically inactive compounds, such that there are no clinically
7142 meaningful differences between the reference biological product and the biological product that has been
7143 licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

7144 "Board" means the Board of Pharmacy.

7145 "Bulk drug substance" means any substance that is represented for use, and that, when used in the
7146 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished
7147 dosage form of the drug; however, "bulk drug substance" does not include intermediates that are used in the
7148 synthesis of such substances.

7149 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the
7150 sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls
7151 the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or a change
7152 in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of
7153 voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary
7154 owning the entity, except that this shall not apply to any corporation the voting stock of which is actively
7155 traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning
7156 the entity or of the parent corporation of a wholly owned subsidiary owning the entity with another business
7157 or corporation; or (v) the expiration or forfeiture of a corporation's charter.

7158 "Co-licensed partner" means a person who, with at least one other person, has the right to engage in the
7159 manufacturing or marketing of a prescription drug, consistent with state and federal law.

7160 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into a
7161 single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a
7162 pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or
7163 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in
7164 expectation of receiving a valid prescription based on observed historical patterns of prescribing and
7165 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an
7166 incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of
7167 his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis
7168 and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs
7169 for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy
7170 licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to
7171 subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed advanced
7172 practice registered nurse or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be
7173 considered compounding.

7174 "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this
7175 chapter. "Controlled substance" does not include distilled spirits, wine, malt beverages, or tobacco as those
7176 terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled
7177 substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority
7178 in subsection D of § 54.1-3443.

7179 "Controlled substance analog" means a substance the chemical structure of which is substantially similar
7180 to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant,
7181 depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater
7182 than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled
7183 substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or
7184 intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is
7185 substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central

7186 nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include
7187 (a) any substance for which there is an approved new drug application as defined under § 505 of the Federal
7188 Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective
7189 pursuant to §§ 501, 502, and 503 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and
7190 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is
7191 in effect for investigational use for that person under § 505 of the Federal Food, Drug, and Cosmetic Act to
7192 the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance
7193 to the extent not intended for human consumption before such an exemption takes effect with respect to that
7194 substance.

7195 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

7196 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this
7197 chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription
7198 device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer,
7199 nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident
7200 warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a
7201 medical equipment supplier in accordance with § 54.1-3415.1.

7202 "Device" means instruments, apparatus, and contrivances, including their components, parts, and
7203 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or
7204 animals or to affect the structure or any function of the body of man or animals.

7205 "Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an
7206 organization approved by the Department of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et
7207 seq.) and who, under the supervision of a licensed physician, an advanced practice registered nurse, a
7208 physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in
7209 a Medicare-certified renal dialysis facility.

7210 "Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is
7211 to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or
7212 commercially available solutions whose purpose is to be used in the performance of hemodialysis not to
7213 include any solutions administered to the patient intravenously.

7214 "Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful
7215 order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding
7216 necessary to prepare the substance for that delivery. However, "dispensing" does not include the
7217 transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated
7218 by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to
7219 patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of
7220 medicine or osteopathy, "dispense" includes only the provision of drugs by a practitioner to patients to take
7221 with them away from the practitioner's place of practice.

7222 "Dispenser" means a practitioner who dispenses.

7223 "Distribute" means to deliver other than by administering or dispensing a controlled substance.

7224 "Distributor" means a person who distributes.

7225 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National
7226 Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them;
7227 (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
7228 disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any
7229 function of the body of man or animals; (iv) articles or substances intended for use as a component of any
7230 article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their
7231 components, parts, or accessories.

7232 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether by
7233 brand or therapeutically equivalent drug product name.

7234 "Electronic prescription" means a written prescription that is generated on an electronic application and is
7235 transmitted to a pharmacy as an electronic data file; Schedules II through V prescriptions shall be transmitted
7236 in accordance with 21 C.F.R. Part 1300.

7237 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic
7238 device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

7239 "FDA" means the U.S. Food and Drug Administration.

7240 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation
7241 designates as being the principal compound commonly used or produced primarily for use, and which is an
7242 immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the
7243 control of which is necessary to prevent, curtail, or limit manufacture.

7244 "Interchangeable" means a biosimilar that meets safety standards for determining interchangeability
7245 pursuant to 42 U.S.C. § 262(k)(4).

7246 "Label" means a display of written, printed, or graphic matter upon the immediate container of any article.
7247 A requirement made by or under authority of this chapter that any word, statement, or other information

7248 appear on the label shall not be considered to be complied with unless such word, statement, or other
7249 information also appears on the outside container or wrapper, if any, of the retail package of such article or is
7250 easily legible through the outside container or wrapper.

7251 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its
7252 containers or wrappers, or accompanying such article.

7253 "Manufacture" means the production, preparation, propagation, conversion, or processing of any item
7254 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or
7255 independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and
7256 includes any packaging or repackaging of the substance or labeling or relabeling of its container.

7257 "Manufacture" does not include compounding.

7258 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a
7259 repackager.

7260 "Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its
7261 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its
7262 resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks
7263 of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such
7264 stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*; (ii) industrial hemp, as
7265 defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his
7266 agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp
7267 producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp
7268 product, as defined in § ~~3.2-4112~~ 4.1-600; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi)
7269 any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or
7270 ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control
7271 Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

7272 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the
7273 ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles,
7274 medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no
7275 medicinal properties that are used for the operation and cleaning of medical equipment, solutions for
7276 peritoneal dialysis, and sterile water or saline for irrigation.

7277 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from
7278 substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of
7279 extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of
7280 opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically
7281 equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline
7282 alkaloids of opium; (iii) opium poppy and poppy straw; or (iv) coca leaves and any salt, compound,
7283 derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof
7284 which is chemically equivalent or identical with any of these substances, but not including decocainized coca
7285 leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

7286 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new
7287 animal drug, the composition of which is such that such drug is not generally recognized, among experts
7288 qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and
7289 effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such
7290 a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this
7291 chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its
7292 labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a
7293 new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is
7294 such that such drug, as a result of investigations to determine its safety and effectiveness for use under such
7295 conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to
7296 a material extent or for a material time under such conditions.

7297 "Nuclear medicine technologist" means an individual who holds a current certification with the American
7298 Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

7299 "Official compendium" means the official United States Pharmacopoeia National Formulary, official
7300 Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

7301 "Official written order" means an order written on a form provided for that purpose by the U.S. Drug
7302 Enforcement Administration, under any laws of the United States making provision therefor, if such order
7303 forms are authorized and required by federal law, and if no such order form is provided then on an official
7304 form provided for that purpose by the Board of Pharmacy.

7305 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to
7306 morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining
7307 liability. "Opiate" does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437
7308 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
7309 "Opiate" does include its racemic and levorotatory forms.

- 7310 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.
- 7311 "Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed
7312 together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the
7313 delivery or display of such article.
- 7314 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently
7315 registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies
7316 with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic
7317 Act, 21 U.S.C. § 301 et seq.
- 7318 "Person" means both the plural and singular, as the case demands, and includes an individual, partnership,
7319 corporation, association, governmental agency, trust, or other institution or entity.
- 7320 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a
7321 pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner
7322 complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of
7323 controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the
7324 pharmacy's personnel as required by § 54.1-3432.
- 7325 "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 7326 "Practitioner" means a physician, dentist, licensed advanced practice registered nurse pursuant to
7327 § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300,
7328 TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific
7329 investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and
7330 administer, or conduct research with respect to a controlled substance in the course of professional practice or
7331 research in the Commonwealth.
- 7332 "Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a
7333 prescription.
- 7334 "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of
7335 mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician,
7336 dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical
7337 supplies.
- 7338 "Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to
7339 a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food,
7340 Drug, and Cosmetic Act (21 U.S.C. § 353(b)).
- 7341 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a
7342 controlled substance or marijuana.
- 7343 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original
7344 package which does not contain any controlled substance or marijuana as defined in this chapter and is not in
7345 itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under
7346 the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol
7347 privately owned, and the labeling of which conforms to the requirements of this chapter and applicable
7348 federal law. However, "proprietary medicine" does not include a drug that is only advertised or promoted
7349 professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed
7350 only upon prescription or the label of which bears substantially the statement "Warning may be habit-
7351 forming," or a drug intended for injection.
- 7352 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with
7353 the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide
7354 generator that is intended to be used in the preparation of any such substance, but does not include drugs such
7355 as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally
7356 occurring radionuclides. "Radiopharmaceutical" also includes any biological product that is labeled with a
7357 radionuclide or intended solely to be labeled with a radionuclide.
- 7358 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. §
7359 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug
7360 Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. §
7361 262(k).
- 7362 "Remote dispensing system" means a profile-driven automated drug dispensing system that performs
7363 operations or activities relative to the storage, packaging, labeling, or dispensing of medications employing
7364 bidirectional audio-visual technology to facilitate pharmacist communication with a patient, authorized agent
7365 of the patient, or person licensed to administer drugs, and collects, controls, and maintains all information
7366 online. Drugs intended to be administered by the patient or a person not licensed to administer drugs must
7367 fully comply with the labeling requirements in §§ 54.1-3410 and 54.1-3463 and Board regulations. Directions
7368 for use may only be abbreviated when drugs are administered exclusively by persons licensed to administer
7369 drugs.
- 7370 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person,
7371 whether as an individual, proprietor, agent, servant, or employee.

7372 "Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its
 7373 salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is
 7374 possible within the specific chemical designation and any preparation, mixture, or substance containing, or
 7375 mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition,
 7376 "isomer" means the optical, position, and geometric isomers.

7377 "Therapeutically equivalent drug products" means drug products that contain the same active ingredients
 7378 and are identical in strength or concentration, dosage form, and route of administration and that are classified
 7379 as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of
 7380 "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products
 7381 with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

7382 "Third-party logistics provider" means a person that provides or coordinates warehousing of or other
 7383 logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale
 7384 distributor, or dispenser of the drug or device but does not take ownership of the product or have
 7385 responsibility for directing the sale or disposition of the product.

7386 "Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of
 7387 the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic
 7388 acid.

7389 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

7390 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics
 7391 provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any
 7392 person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the
 7393 ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by
 7394 reason of this definition.

7395 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or
 7396 patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to
 7397 § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

7398 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner,
 7399 a third-party logistics provider, or a repackager that engages in wholesale distribution.

7400 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter do not
 7401 include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for
 7402 the eyes.

7403 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter have the same
 7404 meanings as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

7405 **§ 54.1-3443. Board to administer article.**

7406 A. The Board shall administer this article and may add substances to or deschedule or reschedule all
 7407 substances enumerated in the schedules in this article pursuant to the procedures of the Administrative
 7408 Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider
 7409 the following:

- 7410 1. The actual or relative potential for abuse;
- 7411 2. The scientific evidence of its pharmacological effect, if known;
- 7412 3. The state of current scientific knowledge regarding the substance;
- 7413 4. The history and current pattern of abuse;
- 7414 5. The scope, duration, and significance of abuse;
- 7415 6. The risk to the public health;
- 7416 7. The potential of the substance to produce psychic or physical dependence; and
- 7417 8. Whether the substance is an immediate precursor of a substance already controlled under this article.

7418 B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a
 7419 regulation controlling the substance if it finds the substance has a potential for abuse.

7420 C. If the Board designates a substance as an immediate precursor, substances which are precursors of the
 7421 controlled precursor shall not be subject to control solely because they are precursors of the controlled
 7422 precursor.

7423 D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall
 7424 be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations
 7425 pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such
 7426 amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it
 7427 shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to
 7428 any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all
 7429 substances it intends to schedule by regulation. The Board shall notify the House and Senate Committees for
 7430 Courts of Justice of any new substance added to Schedule I or II pursuant to this subsection. Any substance
 7431 added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18
 7432 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law
 7433 is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from

7434 adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to
7435 the provisions of subsections A, B, and E.

7436 E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law
7437 and notice of such action is given to the Board, the Board may similarly control the substance under this
7438 chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order
7439 or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by
7440 amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the
7441 Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on
7442 the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be
7443 notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by
7444 regulation in such notice.

7445 F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or
7446 tobacco as those terms are defined or used in Title 4.1.

7447 G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the
7448 provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully
7449 sold over the counter without a prescription.

7450 H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled
7451 pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600, 18.2-247, or
7452 54.1-3401.

7453 **§ 54.1-4426. Accounting services for licensed marijuana establishments.**

7454 A. *As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided*
7455 *in § 4.1-600.*

7456 B. *A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting*
7457 *services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation*
7458 *solely for providing such accounting services.*

7459 C. *Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed*
7460 *marijuana establishment.*

7461 **§ 58.1-301. Conformity to Internal Revenue Code.**

7462 A. Any term used in this chapter shall have the same meaning as when used in a comparable context in
7463 the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

7464 B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall
7465 mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of
7466 the laws of the United States relating to federal income taxes, except for:

7467 1. The special depreciation allowance for certain real property provided for under §§ 168(k), 168(l), 168(m),
7468 1400L, and 1400N of the Internal Revenue Code;

7469 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal
7470 Revenue Code;

7471 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the
7472 Internal Revenue Code;

7473 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax
7474 purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable
7475 debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall
7476 be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to
7477 include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period
7478 beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-
7479 year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before
7480 April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code
7481 shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of
7482 indebtedness in connection with the reacquisition of an "applicable debt instrument";

7483 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on
7484 itemized deductions under § 68(f) of the Internal Revenue Code;

7485 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable
7486 years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set
7487 forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed
7488 for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the
7489 threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for
7490 medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross
7491 income;

7492 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic
7493 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

7494 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.
7495 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

7496 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.
7497 116-136 (2020), related to the limitation on business interest;

7498 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3),
7499 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal
7500 Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the
7501 federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases
7502 for certain loan forgiveness and other business financial assistance; ~~and~~

7503 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would
7504 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the
7505 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall
7506 not apply to any amendment to federal income tax law that is either subsequently adopted by the General
7507 Assembly or a federal tax extender as defined in subdivision b.

7508 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of
7509 the previous regular session of the General Assembly and the first day of the subsequent regular session of
7510 the General Assembly if the cumulative projected impact of such amendments would increase or decrease
7511 general fund revenues by greater than \$75 million in the fiscal year in which the amendments were enacted or
7512 any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment
7513 to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender
7514 as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met.
7515 However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the \$75
7516 million threshold for purposes of determining whether such threshold has been met.

7517 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based
7518 on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as
7519 published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the
7520 previous year.

7521 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law
7522 or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold
7523 impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of
7524 a federal tax provision to which Virginia conforms or has previously conformed.

7525 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and
7526 Appropriations and the House Committees on Appropriations and Finance, shall be responsible for
7527 determining whether the criteria of subdivision a are met.

7528 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the
7529 fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the
7530 preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and
7531 Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall
7532 also provide updates to the same Chairmen on any further amendments to federal income tax law occurring
7533 between submission of the required report and the first day of the subsequent regular session of the General
7534 Assembly; *and*

7535 12. *For taxable years beginning on and after January 1, 2026, the prohibition on utilizing tax deductions*
7536 *for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in*
7537 *Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) under § 280E of the Internal Revenue*
7538 *Code.*

7539 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for
7540 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the
7541 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

7542 **§ 59.1-200. Prohibited practices.**

7543 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
7544 transaction are hereby declared unlawful:

7545 1. Misrepresenting goods or services as those of another;

7546 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

7547 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
7548 with another;

7549 4. Misrepresenting geographic origin in connection with goods or services;

7550 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
7551 benefits;

7552 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7553 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
7554 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
7555 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
7556 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
7557 "not first class";

- 7558 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
7559 price or upon the terms advertised.
- 7560 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
7561 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
7562 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
7563 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
7564 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
7565 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
7566 reasonably expected to have at least such quantity or amount for sale;
- 7567 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
7568 price reductions;
- 7569 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
7570 installed;
- 7571 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
7572 for merchandise or services previously ordered;
- 7573 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
7574 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
7575 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
7576 goods or services advertised or offered for sale;
- 7577 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
7578 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
7579 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
7580 statutes or regulations;
- 7581 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
7582 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
7583 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
7584 provide, use, or include the statement, disclosure, notice, or other information in connection with the
7585 consumer transaction;
- 7586 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
7587 with a consumer transaction;
- 7588 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
7589 or 3.2-6519 is a violation of this chapter;
- 7590 16. Failing to disclose all conditions, charges, or fees relating to:
- 7591 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
7592 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
7593 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
7594 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
7595 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
7596 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
7597 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
7598 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
7599 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
7600 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
7601 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
7602 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
7603 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
7604 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;
- 7605 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
7606 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
7607 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
7608 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;
- 7609 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
7610 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
7611 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
7612 overpayments. If the credit balance information is incorporated into statements of account furnished
7613 consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 7614 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
7615 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;
- 7616 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 7617 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);
- 7618 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);
- 7619 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17

- 7620 et seq.);
- 7621 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 7622 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
- 7623 seq.);
- 7624 24. Violating any provision of § 54.1-1505;
- 7625 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
- 7626 (§ 59.1-207.34 et seq.);
- 7627 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 7628 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 7629 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 7630 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 7631 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 7632 seq.);
- 7633 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 7634 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 7635 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 7636 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 7637 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 7638 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 7639 consumer's social security number;
- 7640 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 7641 37. Violating any provision of § 8.01-40.2;
- 7642 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 7643 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 7644 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 7645 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 7646 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
- 7647 § 59.1-526;
- 7648 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 7649 43. Violating any provision of § 59.1-443.2;
- 7650 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 7651 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 7652 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 7653 47. Violating any provision of § 18.2-239;
- 7654 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 7655 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 7656 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 7657 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 7658 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 7659 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 7660 products that are used, secondhand or "seconds";
- 7661 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 7662 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 7663 52. Violating any provision of § 8.2-317.1;
- 7664 53. Violating subsection A of § 9.1-149.1;
- 7665 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 7666 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 7667 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 7668 drywall has been permanently installed or affixed;
- 7669 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 7670 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 7671 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 7672 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 7673 seq.) of Title 54.1;
- 7674 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 7675 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 7676 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 7677 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 7678 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 7679 59. Violating any provision of subsection E of § 32.1-126;
- 7680 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 7681 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

- 7682 61. Violating any provision of § 2.2-2001.5;
- 7683 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 7684 63. Violating any provision of § 6.2-312;
- 7685 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 7686 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 7687 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 7688 67. Knowingly violating any provision of § 8.01-27.5;
- 7689 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 7690 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 7691 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 7692 obligation to pay for the goods or services;
- 7693 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 7694 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 7695 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 7696 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 7697 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 7698 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 7699 any conduct permitted under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600*
- 7700 *et seq.)*;
- 7701 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
- 7702 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
- 7703 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 7704 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter~~
- 7705 ~~16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;
- 7706 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 7707 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
- 7708 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
- 7709 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
- 7710 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
- 7711 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
- 7712 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
- 7713 accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to~~
- 7714 ~~standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting~~
- 7715 ~~body a licensed marijuana testing facility~~, that states the tetrahydrocannabinol concentration of the substance
- 7716 or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision
- 7717 shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
- 7718 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted
- 7719 under ~~Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1~~ *the Cannabis Control Act (§ 4.1-600 et seq.)*;
- 7720 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
- 7721 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
- 7722 that depicts or is in the shape of a human, animal, vehicle, or fruit;
- 7723 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 7724 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
- 7725 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
- 7726 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
- 7727 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
- 7728 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;
- 7729 74. Selling or offering for sale a topical hemp product, as defined in ~~§ 3.2-4112~~ *4.1-600*, that does not
- 7730 include a label stating that the product is not intended for human consumption. This subdivision shall not (i)
- 7731 apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled
- 7732 in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under
- 7733 Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured
- 7734 prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if
- 7735 requested;
- 7736 75. Violating any provision of § 59.1-466.8;
- 7737 76. Violating subsection F of § 36-96.3:1;
- 7738 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
- 7739 kratom product that does not include a label listing all ingredients and with the following guidance: "This
- 7740 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
- 7741 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
- 7742 plant *Mitragyna speciosa* or any extract thereof;
- 7743 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved

7744 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
 7745 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
 7746 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
 7747 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
 7748 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
 7749 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
 7750 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
 7751 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
 7752 location;

7753 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
 7754 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
 7755 such good or provision of any such continuous service;

7756 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

7757 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
 7758 residential dwelling without holding a mold remediation certification from a nationally or internationally
 7759 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
 7760 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
 7761 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent
 7762 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
 7763 Commonwealth;

7764 82. Willfully violating any provision of § 59.1-444.4;

7765 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

7766 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
 7767 requirements of 21 C.F.R. Part 101;

7768 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual
 7769 health information without the consent of the consumer;

7770 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

7771 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
 7772 seq.).

7773 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
 7774 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
 7775 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
 7776 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

7777 **2. That §§ 3.2-4112 and 3.2-5145.2:1 of the Code of Virginia are amended and reenacted and that the**
 7778 **§ 4.1-700 of the Code of Virginia, as created by the first enactment of this act, is amended and**
 7779 **reenacted as follows:**

7780 **§ 3.2-4112. Definitions.**

7781 As used in this chapter, unless the context requires a different meaning:

7782 "Cannabis sativa product" means a product made from any part of the plant Cannabis sativa with a
 7783 concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

7784 "Edible hemp product" means any hemp product that is or includes an industrial hemp extract, as defined
 7785 in § 3.2-5145.1, and that is intended to be consumed orally.

7786 "Federally licensed hemp producer" means a person who holds a hemp producer license issued by the
 7787 U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

7788 "Grow" means to plant, cultivate, or harvest a plant or crop.

7789 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

7790 "Handle" means to temporarily possess industrial hemp grown in compliance with state or federal law that
 7791 (i) has not been processed and (ii) was not grown by and will not be processed by the person temporarily
 7792 possessing it.

7793 "Handler" means any person who is registered pursuant to subsection A of § 3.2-4115 to handle industrial
 7794 hemp. "Handler" does not include a retail establishment that sells or offers for sale a hemp product.

7795 "Handler's storage site" means the location at which a handler stores or intends to store the industrial
 7796 hemp he handles.

7797 "Hemp product" means a product, including any raw materials from industrial hemp that are used for or
 7798 added to a food or beverage, that (i) contains industrial hemp and has completed all stages of processing
 7799 needed for the product and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol
 7800 concentration of no greater than 0.3 percent and (b) contains either no more than two milligrams of total
 7801 tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the
 7802 amount of total tetrahydrocannabinol per package the same as that term is defined in § 4.1-600.

7803 "Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

7804 "Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof, whether growing
 7805 or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

7806 "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed
7807 to convert the extract into a hemp product.

7808 "Process" means to convert industrial hemp into a hemp product.

7809 "Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

7810 "Process site" means the location at which a processor processes or intends to process industrial hemp.

7811 "Production field" means the land or area on which a grower or a federally licensed hemp producer is
7812 growing or intends to grow industrial hemp.

7813 "Regulated hemp product" means a hemp product intended for smoking or an edible hemp product.

7814 "Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its
7815 salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is
7816 possible within the specific chemical designation and any preparation, mixture, or substance containing, or
7817 mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition,
7818 "isomer" means the optical, position, and geometric isomers the same as that term is defined in § 4.1-600.

7819 "Topical hemp product" means a hemp product that (i) is intended to be rubbed, poured, sprinkled, or
7820 sprayed on or otherwise applied to the human body or any part thereof and (ii) is not intended to be consumed
7821 orally or by inhalation.

7822 "Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of
7823 the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic
7824 acid same as that term is defined in § 4.1-600.

7825 **§ 3.2-5145.2:1. Manufacturers of industrial hemp extract; penalties.**

7826 A. Any person who manufactures, sells, or offers for sale an industrial hemp extract or food containing an
7827 industrial hemp extract shall be subject to the requirements of this chapter and regulations adopted pursuant
7828 to this chapter.

7829 B. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing
7830 an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to
7831 § 3.2-5100; unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to
7832 manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract
7833 after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner
7834 that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains
7835 an industrial hemp-derived cannabinoid; (iv) sells or offers for sale at retail a food that (a) contains a total
7836 tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams
7837 of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25
7838 times greater than the amount of total tetrahydrocannabinol per package; (v) manufactures, offers for sale, or
7839 sells in violation of this chapter or a regulation adopted pursuant to this chapter a substance intended to be
7840 consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (vi) (v)
7841 otherwise violates any provision of this chapter or a regulation adopted pursuant to this chapter, in addition to
7842 any other penalties provided, is subject to a civil penalty not to exceed \$10,000 for each day a violation
7843 occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State
7844 Treasurer for remittance to the Department.

7845 C. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing
7846 an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to
7847 § 3.2-5100; unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to
7848 manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract
7849 after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner
7850 that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains
7851 an industrial hemp-derived cannabinoid; (iv) manufactures, offers for sale, or sells in violation of this chapter
7852 or a regulation adopted pursuant to this chapter a substance intended to be consumed orally that is advertised
7853 or labeled as containing an industrial hemp-derived cannabinoid; or (v) otherwise violates any provision of
7854 this chapter or a regulation adopted pursuant to this chapter, in addition to any other penalties provided, is
7855 guilty of a Class 1 misdemeanor. Each day in which a violation occurs shall constitute a separate offense.

7856 D. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny,
7857 suspend, or revoke a permit issued pursuant to § 3.2-5100 if the permitted entity is found to have violated
7858 subdivision A 69, 70, 71, 72, 73, or 74 of § 59.1-200 by a court of competent jurisdiction.

7859 E. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug
7860 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to
7861 Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

7862 **§ 4.1-700. Exemptions from licensure.**

7863 *The licensure requirements of this subtitle shall not apply to (i) a handler, grower, or processor of*
7864 *industrial hemp that is registered with the Commissioner of Agriculture and Consumer Services pursuant to*
7865 *Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (ii)*
7866 *a person that has been issued a regulated hemp product retail facility registration and is acting in*
7867 *accordance with the provisions of Chapter 17 (§ 4.1-1700 et seq.); (iii) a manufacturer of an edible hemp*

7868 *product operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (iv) a*
7869 *person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle*
7870 *shall be construed to (a) prevent any person described in clauses (i) through (iii) from obtaining a license*
7871 *pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a*
7872 *licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions*
7873 *of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, processing, transporter,*
7874 *microbusiness, or retail licensee from operating on the licensed premises of an industrial hemp processing*
7875 *facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.*

7876 **3. That Article 4 (§§ 3.2-4122 through 3.2-4126) of Chapter 41.1 of Title 3.2 and §§ 3.2-5145.4:1,**
7877 **4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.**

7878 **4. That the following provisions of the first enactment of this act shall become effective on January 1,**
7879 **2027: (i) §§ 2.2-2499.8, 3.2-4113, 4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1,**
7880 **18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252,**
7881 **18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2,**
7882 **18.2-265.3, 18.2-287.2, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1,**
7883 **19.2-303.01, 19.2-386.22, 19.2-389.3, 19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-277.08, 46.2-105.2,**
7884 **46.2-347, 53.1-231.2, 54.1-2903, 54.1-3443, and 59.1-200 of the Code of Virginia, as amended by this**
7885 **act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118,**
7886 **4.1-1119, 4.1-1300, 4.1-1301, 4.1-1303 through 4.1-1309, and Chapter 17 (§§ 4.1-1700 through 4.1-705)**
7887 **of Title 4.1 of the Code of Virginia, as created by this act; and (iii) Article 4 (§§ 3.2-4122 through**
7888 **3.2-4126) of Chapter 41.1 of Title 3.2 and §§ 3.2-5145.4:1, 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and**
7889 **18.2-251.1 of the Code of Virginia, as repealed by this act.**

7890 **5. That the provisions of the second enactment of this act shall become effective on January 1, 2027.**

7891 **6. That by December 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to**
7892 **100 microbusiness licenses pursuant to § 4.1-803 of the Code of Virginia, as created by this act, to**
7893 **applicants that (i) (a) are industrial hemp processors or growers that (1) are registered with the**
7894 **Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of**
7895 **Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, and are in good**
7896 **standing as of September 1, 2026, or (2) were previously registered with the Commissioner of**
7897 **Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the**
7898 **Code of Virginia, completed such registration prior to January 1, 2021, were in good standing prior to**
7899 **forfeiting such registration or allowing such registration to expire, and have established the reason for**
7900 **the previous forfeiture or lapse of such registration and disclosed any violations, enforcement actions,**
7901 **or compliance issues related to the previous registration; (b) qualify as an impact license applicant**
7902 **pursuant to subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act; or (c) qualify**
7903 **as a farmer under the U.S. Department of Agriculture qualifications and (ii) meet any applicable**
7904 **licensing requirements and financial, security, and operational readiness criteria as established by the**
7905 **Authority. The Authority shall begin accepting applications for such microbusiness licenses no later**
7906 **than September 1, 2026.**

7907 **7. That a pharmaceutical processor issued a permit by the Board of Directors (the Board) of the**
7908 **Virginia Cannabis Control Authority (the Authority) pursuant to Chapter 16 (§ 4.1-1600 et seq.) of**
7909 **Title 4.1 of the Code of Virginia shall apply to the Board for dual-use privileges pursuant to**
7910 **§ 4.1-1602.1 of the Code of Virginia, as created by this act, in a manner prescribed by the Board**
7911 **between September 1, 2026, and December 1, 2026. No later than September 1, 2026, the Authority**
7912 **shall create a streamlined application process for pharmaceutical processors to apply for such dual-use**
7913 **privileges which shall include a requirement that a pharmaceutical processor submit to and obtain**
7914 **approval from the Authority for a detailed medical cannabis program preservation plan describing**
7915 **how such processor will prioritize sales and access to medical cannabis products for qualifying**
7916 **patients, including a plan for managing customer traffic flow, preventing supply shortages, and**
7917 **ensuring appropriate staffing. Provided the applicable licensing requirements are met and upon (i) the**
7918 **payment in full of a one-time \$10 million fee to the Authority by the pharmaceutical processor by**
7919 **December 1, 2026, or (ii) the pharmaceutical processor's entry, by December 1, 2026, into an**
7920 **installment payment plan approved by the Board for payment of such fee, the Board shall verify that**
7921 **such pharmaceutical processor and its cannabis dispensing facilities may exercise dual-use privileges**
7922 **pursuant to § 4.1-1602.1 of the Code of Virginia, as created by this act. The Board shall allow a**
7923 **pharmaceutical processor to pay such fee in installments over a period not to exceed three years**
7924 **pursuant to terms and conditions established by the Board. In addition, in order to exercise such dual-**
7925 **use privileges, a pharmaceutical processor shall enter into an agreement to participate in an impact**
7926 **licensee business accelerator plan, as defined by the Cannabis Impact Business Support Team**
7927 **pursuant to § 4.1-604 of the Code of Virginia, as amended by this act, for at least three years after**
7928 **dual-use privilege verification. On and after December 1, 2026, a pharmaceutical processor issued a**
7929 **permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia that has not**

7930 applied for verification to exercise dual-use privileges and paid the conversion fee in full or entered
7931 into an approved installment payment plan shall not exercise such dual-use privileges or renew its
7932 permit.

7933 8. That by December 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to
7934 20 licenses, consisting of no more than 10 marijuana cultivation facility licenses and no more than 10
7935 marijuana processing facility licenses, to applicants that are industrial processors or growers that (i)(a)
7936 are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1
7937 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration prior to
7938 January 1, 2021, or (b) (1) were previously registered with the Commissioner of Agriculture and
7939 Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia; (2)
7940 completed such registration prior to January 1, 2021; (3) were in good standing prior to forfeiting such
7941 registration or allowing such registration to expire; and (4) have established the reason for the previous
7942 forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance
7943 issues related to the previous registration; (ii) meet any applicable licensing requirements; and (iii) pay
7944 a one-time \$500,000 fee to the Authority. The Board shall allow such applicants to pay such \$500,000
7945 fee in installments over a period not to exceed three years pursuant to terms and conditions established
7946 by the Board. No later than September 1, 2026, the Authority shall create a streamlined application
7947 process for such industrial hemp processors or growers to apply for such licenses.

7948 9. That the Virginia Cannabis Control Authority (the Authority) may, on and after, September 1, 2026,
7949 begin accepting license applications from all applicants and issuing licenses pursuant to the provisions
7950 of § 4.1-1000 of the Code of Virginia, as created by this act.

7951 10. That by December 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall have (i)
7952 issued up to 100 microbusiness licenses pursuant to the sixth enactment of this act; (ii) verified the
7953 pharmaceutical processors' dual-use privileges as required by the seventh enactment of this act; (iii)
7954 issued no more than 10 marijuana cultivation facility licenses and no more than 10 marijuana
7955 processing facility licenses to industrial hemp growers or processors as required by the eighth
7956 enactment of this act; and (iv) issued at least 55 additional licenses distributed among impact licensees
7957 and other license types determined by the Board of Directors of the Authority.

7958 11. That, notwithstanding the fourth enactment of this act, any applicant issued a license by the
7959 Virginia Cannabis Control Authority (the Authority) or pharmaceutical processor that the Board of
7960 Directors (the Board) of the Authority has verified may exercise dual-use privileges may operate in
7961 accordance with the provisions of this act prior to January 1, 2027; however, prior to January 1, 2027,
7962 no licensee may engage in the retail sale of marijuana, marijuana products, immature marijuana
7963 plants, or marijuana seeds unless such licensee is (i) a pharmaceutical processor or cannabis dispensing
7964 facility dispensing cannabis products to a patient, his registered agent, or if such patient is a minor or
7965 vulnerable adult as defined in § 18.2-369 of the Code of Virginia, such patient's parent or legal
7966 guardian and (ii) acting in accordance with the provisions of Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1
7967 of the Code of Virginia. Notwithstanding any other provision of law, on or after September 1, 2026,
7968 and prior to January 1, 2027, no marijuana cultivation facility licensee, marijuana processing facility
7969 licensee, marijuana transporter licensee, marijuana delivery operator, retail marijuana store licensee,
7970 microbusiness licensee, marijuana testing facility licensee, or agent or employee thereof shall be subject
7971 to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of
7972 Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3,
7973 or 18.2-308.4 of the Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as
7974 repealed by this act, involving marijuana if such violation is related to acts committed within the scope
7975 of the permit, licensure, or employment and in accordance with the provisions of the Cannabis Control
7976 Act (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. By no later than January 1, 2027, the
7977 Board shall have promulgated regulations governing outdoor growth pursuant to § 4.1-606 of the Code
7978 of Virginia, as amended by this act.

7979 12. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-
7980 sale tracking system pursuant to § 4.1-611 of the Code of Virginia, as amended by this act, by
7981 September 1, 2026.

7982 13. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits
7983 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze
7984 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility
7985 licensees, and (iii) report its findings to the General Assembly by November 1, 2026. The Authority
7986 shall continue such analysis and submit updated findings to the General Assembly for two years after
7987 such initial report and shall submit such updated findings by November 1 during the two subsequent
7988 years.

7989 14. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
7990 promulgate regulations to implement the provisions of this act by September 1, 2026. With the
7991 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process

7992 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
7993 thereto shall apply to the Board's initial adoption of such regulations.

7994 15. That, from July 1, 2026, to July 1, 2027, the Virginia Cannabis Control Authority (the Authority)
7995 shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into
7996 the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as
7997 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license
7998 fees.

7999 16. That the Joint Commission to Oversee the Transition of the Commonwealth into a Cannabis Retail
8000 Market (the Joint Commission) shall consider and make recommendations on (i) the establishment and
8001 implementation of (a) on-site consumption licenses allowing adults to use cannabis on the premises of a
8002 licensed marijuana establishment and (b) microbusiness cannabis event permits allowing
8003 microbusiness licensees to hold temporary age-restricted sales events at approved venues such as
8004 farmers markets or pop-up locations where such licensees may sell marijuana or marijuana products
8005 directly to consumers outside of their licensed premises and (ii) the benefits, limitations, and feasibility
8006 of the Virginia Alcoholic Beverage Control Authority's involvement in the enforcement of laws and
8007 regulations related to the cannabis retail market in the Commonwealth. The Joint Commission shall
8008 report its findings and recommendations to the Chairs of the House Committee on General Laws and
8009 the Senate Committee on Rehabilitation and Social Services by November 1, 2026.

8010 17. That the Virginia Alcoholic Beverage Control Authority (the ABC) and the Virginia Cannabis
8011 Control Authority (the Authority) shall jointly submit to the Chairs of the House Committees on
8012 General Laws and Appropriations and the Senate Committees on Rehabilitation and Social Services
8013 and Finance and Appropriations, no later than January 1, 2027, a plan describing the respective
8014 organizational structures and enforcement roles of the ABC and the Authority with respect to the
8015 retail marijuana market in the Commonwealth. The ABC and the Authority may hire an outside
8016 consultant to assist with the plan and such plan shall include (i) the current organizational structures
8017 of the ABC and the Authority as they relate to marijuana regulation and enforcement; (ii) the
8018 delineation of enforcement and regulatory responsibilities between the ABC and the Authority; (iii)
8019 identification of any areas of overlapping or shared authority; (iv) an analysis of the fiscal and
8020 operational implications of any such overlap; (v) opportunities for coordination, efficiencies, or cost
8021 savings; (vi) estimated staffing levels, personnel classifications, and other resource needs associated
8022 with carrying out such regulatory and enforcement responsibilities; and (vii) and any
8023 recommendations for statutory, regulatory, or organizational changes to improve enforcement and
8024 coordination between the ABC and the Authority.

8025 18. That the Virginia Department of Education (the Department), with assistance from the Virginia
8026 Cannabis Control Authority (the Authority) and other appropriate agencies, local school divisions, and
8027 appropriate experts, shall implement a plan to ensure that teachers have access to sufficient
8028 information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use
8029 among the youth and about substance abuse, as provided in the 2025 Health Standards of Learning.
8030 The Department shall (i) review resources currently provided to teachers to determine if additional or
8031 updated material or lesson ideas are needed and (ii) provide or develop any additional materials and
8032 resources deemed necessary and make the same available to teachers by January 1, 2027.

8033 19. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall
8034 develop a plan for introducing teachers, particularly those teaching health, to the information and
8035 resources available to them to assist them in teaching the 2025 Health Standards of Learning as it
8036 relates to marijuana use. Such plan shall include providing professional development webinars as soon
8037 as practicable, as well as ongoing periodic professional development relating to marijuana, as well as
8038 alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of
8039 implementation and any potential source of funds to cover such cost and shall be submitted to the
8040 Governor and the General Assembly by November 1, 2026.

8041 20. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia
8042 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and
8043 Developmental Services shall work with existing collegiate recovery programs to determine what, if
8044 any, additional evidence-based efforts should be undertaken for college-age individuals to promote
8045 education and prevention strategies relating to marijuana. The plan shall include the estimated cost of
8046 implementation and any potential source of funds to cover such cost and shall be submitted to the
8047 Governor and the General Assembly by November 1, 2026.

8048 21. That the Virginia Cannabis Control Authority shall be vested with all the powers and duties held
8049 by the Department of Agriculture and Consumer Services prior to January 1, 2027, in its
8050 administration of the provisions set forth in Article 4 (§ 3.2-4122 et seq.) of Chapter 41.1 of Title 3.2 of
8051 the Code of Virginia, as repealed by this act.

8052 22. That any valid, active registration issued by the Commissioner of Agriculture and Consumer
8053 Services pursuant to § 3.2-4122 of the Code of Virginia, as repealed by this act, prior to January 1,

8054 2027, shall remain valid until its expiration date and be considered to have been issued by the Board of
8055 Directors of the Virginia Cannabis Control Authority.

8056 23. That the regulations governing the manufacturing and sale of products that contain industrial
8057 hemp extracts intended for human consumption in 2VAC5-595 of the Virginia Administrative Code as
8058 promulgated or amended by the Board of Agriculture and Consumer Services pursuant to Article 5
8059 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2 of the Code of Virginia shall remain in full force and
8060 effect and shall be administered by the Virginia Cannabis Control Authority (the Authority) until the
8061 Board of Directors of the Authority promulgates regulations governing the sale of regulated hemp
8062 products pursuant to § 4.1-606 of the Code of Virginia, as amended by this act. The Board of
8063 Agriculture and Consumer Services shall repeal the regulations governing the manufacturing and sale
8064 of products that contain industrial hemp extracts intended for human consumption in 2VAC5-595 of
8065 the Virginia Administrative Code upon the effective date of the regulations promulgated by the Board
8066 of Directors of the Authority governing the sale of regulated hemp products pursuant to § 4.1-606 of
8067 the Code of Virginia, as amended by this act. With the exception of § 2.2-4031 of the Code of Virginia,
8068 neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor
8069 public participation guidelines adopted pursuant thereto shall apply to the Board of Agriculture and
8070 Consumer Services' repeal of regulations governing the manufacturing and sale of products that
8071 contain industrial hemp extracts intended for human consumption in 2VAC5-595 of the Virginia
8072 Administrative Code.

8073 24. That notwithstanding any other provision of law, the Virginia Cannabis Control Authority (the
8074 Authority) shall give preference in hiring to employees of the Department of Agriculture and
8075 Consumer Services (the Department). The Authority shall issue a written notice to all persons whose
8076 employment at the Department will be transferred to the Authority. The date upon which such written
8077 notice is issued shall be referred to herein as the "Option Date." In order to facilitate an orderly and
8078 efficient transition and ensure the continuation of operations during the transition from the
8079 Department to the Authority, the Authority shall have discretion, subject to the time limitations
8080 contained herein, to determine the date upon which any employee's employment with the Department
8081 will end or be transferred to the Authority. This date shall be stated in the written notice and shall be
8082 referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2026,
8083 without the mutual agreement of the employee and the Authority. No Transition Date shall be set
8084 beyond January 1, 2027. Each person whose employment will be transferred to the Authority may, by
8085 written request made within 120 days of the Option Date, elect not to become employed by the
8086 Authority. Any employee of the Department who (i) is not offered the opportunity to transfer to
8087 employment by the Authority or (ii) is not offered a position with the Authority for which the employee
8088 is qualified or is offered a position that requires relocation or a reduction in salary shall be eligible for
8089 the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.
8090 of the Code of Virginia). Any employee who accepts employment with the Authority shall not be
8091 considered to be involuntarily separated from state employment and shall not be eligible for the
8092 severance benefits conferred by the provisions of the Workforce Transition Act. Any eligibility for such
8093 severance benefits shall be contingent on the continued employment through an employee's Transition
8094 Date.

8095 25. That notwithstanding any other provision of law to the contrary, any person whose employment is
8096 transferred to the Authority as a result of the twenty-fourth enactment of this act and who is a member
8097 of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title
8098 2.2 of the Code of Virginia shall continue to be a member of such health insurance plan under the same
8099 terms and conditions as if no transfer had occurred.

8100 26. That notwithstanding any other provision of law to the contrary, any person whose employment is
8101 transferred to the Authority as a result of the twenty-fourth enactment this act and who is a member of
8102 the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.)
8103 of Chapter 1 of Title 51.1 of the Code of Virginia shall continue to be a member of the Virginia
8104 Retirement System or other such authorized retirement plan under the same terms and conditions as if
8105 no transfer had occurred.

8106 27. That the provisions of this act may result in a net increase in periods of imprisonment or
8107 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
8108 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;
8109 therefore, Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing
8110 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
8111 Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of
8112 commitment to the custody of the Department of Juvenile Justice.