

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, 59.1-200, 59.1-293.10, 59.1-293.13, 59.1-293.15 through 59.1-293.18, 59.1-293.20, and 59.1-293.21 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-254, and by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-361; and to repeal §§ 58.1-1021.06 through 58.1-1021.09 and 59.1-293.11, 59.1-293.12, and 59.1-293.14 of the Code of Virginia, relating to Virginia Alcoholic Beverage Control Authority; permitting of retail tobacco product retailers; purchase, possession, and sale of retail tobacco products; penalties; report.

[S 620]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, 59.1-200, 59.1-293.10, 59.1-293.13, 59.1-293.15 through 59.1-293.18, 59.1-293.20, and 59.1-293.21 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-254, and by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-361, as follows:

- § 4.1-100. Definitions.**
- As used in this subtitle, unless the context requires a different meaning:
- "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but ~~shall~~ *does* not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.
- "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.
- "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.
- "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.
- "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.
- "Barrel" means any container or vessel having a capacity of more than 43 ounces.
- "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.
- "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.
- "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.
- "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.
- "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20

57 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
 58 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
 59 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless ~~Internet~~ internet services, (v) is equipped
 60 with charging stations at every seat for cellular phones or other portable devices, and (vi) during the
 61 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in
 62 this subtitle or Board regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

119 *products are authorized for sale by the U.S. Food and Drug Administration.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

276 *"Retail tobacco permittee" means any tobacco retailer to whom a retail tobacco permit has been issued*
 277 *by the Board.*

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

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

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

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

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

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

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

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

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

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

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

324 **§ 4.1-103. General powers of Board.**

325 The Board shall have the power to:

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

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

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

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

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

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

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

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

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

360 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
 361 2.2;

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

365 12. Buy and sell any mixers;

366 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international

367 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
368 (clothing);

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

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

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

374 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
375 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
376 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
377 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
378 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
379 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
380 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
381 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
382 terms and conditions as may be determined by the Board; and occupy and improve any land or building
383 required for the purposes of this subtitle;

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

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

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

395 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
396 of records, memoranda, papers, and other documents before the Board or any agent of the Board; and
397 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the
398 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
399 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may
400 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement
401 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such
402 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A
403 consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial
404 review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by
405 the Board in future disciplinary proceedings;

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

411 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
412 § 4.1-111;

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

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

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

417 ~~26-~~ 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

418 ~~27-~~ 28. Establish minimum food sale requirements for all retail licensees;

419 ~~28-~~ 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief
420 Executive Officer as the Board deems appropriate;

421 ~~29-~~ 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
422 activities undertaken to enforce the provisions of this subtitle;

423 ~~30-~~ 31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
424 applications for such permits;

425 ~~31-~~ 32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of
426 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state
427 license fee; and

428 ~~32-~~ 33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

429 **§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.**

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

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

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

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

453 **§ 4.1-204. Records of licensees and retail tobacco permittees; inspection of records and places of**
454 **business.**

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

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

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

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

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

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

491 such records on a monthly basis for any month during which the licensee or permittee makes a delivery for
 492 which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to
 493 subsection E of § 4.1-212.1.

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

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

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

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

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

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

522 *Article 4.*

523 *Permitting and Restrictions for Tobacco Retailers.*

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

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

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

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

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

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

543 *The Board may permit a retail tobacco permittee who fails to pay:*

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

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

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

552 **§ 4.1-243. Applications for retail tobacco permits; fees.**

553 A. Prior to selling any retail tobacco product, all persons with such intent shall file with the Board an
 554 application for a retail tobacco permit on a form prescribed by the Board and a statement in writing by the
 555 applicant swearing and affirming that all of the information contained therein is true. This section shall apply
 556 to all persons intending to sell any retail tobacco product, including (i) persons that hold a Retail Sales and
 557 Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or an Other Tobacco Products
 558 Distributor's License; (ii) retail dealers of liquid nicotine and nicotine vapor products; and (iii) persons that
 559 hold any other similar permit issued by the Department of Taxation.

560 B. The provisions of subsection A shall not apply to the continuance of retail tobacco permits granted
 561 under this article; however, such retail tobacco permittees shall file and maintain with the Board a current,
 562 accurate record of the information required by the Board pursuant to subsection A and notify the Board of
 563 any changes to such information in accordance with Board regulations.

564 C. The Board shall conduct a background investigation, to include a criminal history records search,
 565 which may include a fingerprint-based national criminal history records search, on each applicant for a
 566 tobacco retail permit that includes a completed personal data form and a criminal history records search.
 567 The Board may waive, for good cause shown, the requirement of a criminal history records search and a
 568 completed personal data form for (i) law-enforcement officers and (ii) directors, nonmanaging members, or
 569 limited partners of any applicant corporation, limited liability company, or limited partnership.

570 D. An applicant for a tobacco retail permit shall pay an application fee in the amount of \$400, plus any
 571 cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central
 572 Criminal Records Exchange for the processing of fingerprints for such applicant's criminal history records
 573 search required by the Board. However, any applicant who holds a license to sell alcoholic beverages issued
 574 by the Authority pursuant to Article 2 of Chapter 2 shall pay an application fee in the amount of \$300. The
 575 application fee shall be in addition to the state permit fee required pursuant to § 4.1-244 of the Code of
 576 Virginia and shall not be refunded. Each applicant shall pay such application fee at the time the application
 577 for a tobacco retail permit is filed.

578 **§ 4.1-244. Fees on retail tobacco products and permits.**

579 A. The annual renewal fee on retail tobacco permits shall be in an amount set by the Board and apply to
 580 all persons permitted to sell any retail tobacco product, including (i) persons that hold a Retail Sales and Use
 581 Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or an Other Tobacco Products
 582 Distributor's License; (ii) retail dealers of liquid nicotine and nicotine vapor products; and (iii) persons that
 583 hold any other similar permit issued by the Department of Taxation.

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

588 **§ 4.1-245. Conditions under which Board may refuse to grant retail tobacco permits.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

641 3. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political
 642 subdivision thereof that warrants refusal by the Board to grant a retail tobacco permit.

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

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

646 6. Investigators with the Office of the Attorney General seized cigarette inventory, as authorized by
 647 § 2.2-509.1, from the applicant during the prior year.

648 **§ 4.1-246. Conditions under which Board shall refuse to grant retail tobacco permits.**

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

651 **§ 4.1-247. Notice and hearings for refusal to grant retail tobacco permits; Administrative Process Act;**
 652 **exceptions.**

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

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

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

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

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

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

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

674 **§ 4.1-248. Grounds for which Board may suspend or revoke retail tobacco permits.**

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

676 1. The retail tobacco permittee, or if the retail tobacco permittee is a partnership, any general partner

677 thereof, or if the retail tobacco permittee is an association, any member thereof, or any limited partner of 10
 678 percent or more with voting rights, or if the retail tobacco permittee is a corporation, any officer, director, or
 679 shareholder owning 10 percent or more of its capital stock, or if the retail tobacco permittee is a limited
 680 liability company, any member-manager or any member owning 10 percent or more of the membership
 681 interest of the limited liability company:

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

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

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

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

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

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

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

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

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

703 j. Has upon the permitted premises (i) illegally possessed, distributed, sold, or used or has knowingly
 704 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana,
 705 controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as
 706 those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title
 707 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or
 708 (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or
 709 the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the
 710 operation of the permitted business that facilitates the commission of any of the offenses set forth herein;

711 k. Has failed to take reasonable measures to prevent (i) the permitted premises, (ii) any premises
 712 immediately adjacent to the permitted premises that are owned or leased by the retail tobacco permittee, or
 713 (iii) any portion of public property immediately adjacent to the permitted premises from becoming a place
 714 where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et
 715 seq.), 2.1 (§ 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
 716 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2
 717 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of
 718 Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter
 719 9 of Title 18.2, and such violations lead to arrests that are so frequent and serious as to reasonably be
 720 deemed a continuing threat to public safety; or

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

725 2. The place occupied by the retail tobacco permittee:

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

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

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

734 3. The retail tobacco permittee or any employee of the retail tobacco permittee discriminated against any
 735 member of the Armed Forces of the United States by prices charged or otherwise.

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

738 5. The retail tobacco permittee is delinquent for a period of 90 days or more in the payment of any taxes,

739 or any related penalties or interest, lawfully imposed by the locality where the permitted business is located,
 740 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the
 741 outstanding amount is de minimis; (ii) the retail tobacco permittee has pending a bona fide application for
 742 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the retail tobacco permittee has
 743 entered into a payment plan approved by the same locality to settle the outstanding liability.

744 6. The Board, the Department of Taxation, or investigators with the Office of the Attorney General found
 745 that the retail tobacco permittee (i) exceeded the legal volume limits set by § 58.1-1017.1 during the prior
 746 year or (ii) committed any violation of § 59.1-293.20.

747 7. Investigators with the Office of the Attorney General seized cigarette inventory pursuant to § 2.2-509.1
 748 from the retail tobacco permittee during the prior year.

749 8. Any other cause authorized by this article.

750 **§ 4.1-249. Grounds for which Board shall suspend or revoke retail tobacco permits.**

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

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

755 2. A retail tobacco permittee has defrauded or attempted to defraud the Board or any federal, state, or
 756 local government or governmental agency or authority by making or filing any report, document, or tax
 757 return required by statute or regulation that is fraudulent or contains a willfully or knowingly false
 758 representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal,
 759 state, or local government or governmental agency or authority by making or maintaining business records
 760 required by statute or regulation that are false or fraudulent.

761 **§ 4.1-250. Suspension or revocation of retail tobacco permits; notice and hearings; imposition of**
 762 **penalties.**

763 A. 1. Except for temporary retail tobacco permits issued pursuant to § 4.1-252, before the Board may
 764 impose a civil penalty or suspend or revoke any retail tobacco permit, reasonable notice of such proposed or
 765 contemplated action shall be given to the retail tobacco permittee in accordance with the provisions of
 766 § 2.2-4020.

767 2. Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the retail
 768 tobacco permittee, permit the retail tobacco permittee to inspect and copy or photograph all (i) written or
 769 recorded statements made by the retail tobacco permittee or copies thereof or the substance of any oral
 770 statements made by the retail tobacco permittee or a previous or present employee of the retail tobacco
 771 permittee to any law-enforcement officer, the existence of which is known by the Board and upon which the
 772 Board intends to rely as evidence in any adversarial proceeding under this chapter against the retail tobacco
 773 permittee and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or
 774 portions thereof, that are within the possession, custody, or control of the Board and upon which the Board
 775 intends to rely as evidence in any adversarial proceeding under this chapter against the retail tobacco
 776 permittee. In addition, any subpoena for the production of documents issued to any person at the request of
 777 the retail tobacco permittee or the Board pursuant to § 4.1-103 shall provide for the production of the
 778 documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-103.

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

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

789 B. In suspending any retail tobacco permit, the Board may impose, as a condition precedent to the
 790 removal of such suspension or any portion thereof, a requirement that the retail tobacco permittee pay the
 791 cost incurred by the Board in investigating the retail tobacco permittee and in holding the proceeding
 792 resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no
 793 event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within the five
 794 years immediately preceding the date of the violation or \$5,000 for the second violation occurring within the
 795 five years immediately preceding the date of the second violation. However, if the violation involved selling
 796 retail tobacco products to a person prohibited from purchasing such retail tobacco products, the Board may
 797 impose a civil penalty not to exceed \$3,000 for the first violation occurring within the five years immediately
 798 preceding the date of the violation and \$6,000 for a second violation occurring within the five years
 799 immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or
 800 both. The Board may also impose a requirement that the retail tobacco permittee pay for the cost incurred by

801 the Board, not to exceed \$25,000, in investigating the retail tobacco permittee and in holding the proceeding
 802 resulting in the violation in addition to any suspension or civil penalty incurred.

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

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

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

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

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

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

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

825 **§ 4.1-251. Suspension or revocation; disposition of retail tobacco products on hand; termination.**

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

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

830 2. Upon retail tobacco permits granted by the Board and conditions specified by the Board, sold to
 831 persons outside the Commonwealth for resale outside the Commonwealth upon retail tobacco permits
 832 granted by the Board.

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

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

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

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

847 **§ 4.1-252. Continuation of retail tobacco permittee operations in certain instances; temporary retail**
 848 **tobacco permits.**

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

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

857 2. Any person who, through contract, lease, concession, license, management or similar agreement
 858 (collectively, the contract), becomes lawfully entitled to the use and control of the premises of a retail
 859 tobacco permittee to continue to operate the retail tobacco establishment to the same extent as a retail
 860 tobacco permittee, provided such person has made application to the Board for a retail tobacco permit at the
 861 same premises. The temporary retail tobacco permit shall (i) confer the privileges of any retail tobacco
 862 permits held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120

863 days or for such longer period as may be necessary as determined by the Board pending the completion of
 864 the processing of the temporary retail tobacco permittee's retail tobacco permit application. No temporary
 865 retail tobacco permit shall be issued without the written consent of the previous retail tobacco permittee. No
 866 temporary retail tobacco permit shall be issued under the provisions of this subdivision if the previous retail
 867 tobacco permittee owes any state or local taxes, or has any pending charges for violation of this article or
 868 any Board regulation, unless the temporary retail tobacco permittee agrees to assume the liability of the
 869 previous retail tobacco permittee for the taxes or any penalty for the pending charges. An application for a
 870 temporary retail tobacco permit may be filed prior to the effective date of the contract, in which case the
 871 temporary retail tobacco permit, when issued, shall become effective on the effective date of the contract.
 872 Upon the effective date of the temporary retail tobacco permit, (a) the temporary retail tobacco permittee
 873 shall be responsible for compliance with the provisions of this article and any Board regulation and (b) the
 874 previous retail tobacco permittee shall not be held liable for any violation of this article or any Board
 875 regulation committed by, or any errors or omissions of, the temporary retail tobacco permittee.

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

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

887 **§ 4.1-253. Records of certain retail tobacco permittees; audits, inspections, and investigations;**
 888 **penalties.**

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

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

896 C. The Department of Taxation shall impose a penalty of \$1,000 for each day that a person fails or
 897 refuses to allow or cooperate with an audit, inspection, or investigation of such records. Such penalty shall
 898 be collected as other taxes are collected. Upon a person's refusal to cooperate with an audit, inspection, or
 899 investigation, the Attorney General may apply to the Circuit Court for the City of Richmond for injunctive
 900 relief.

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

910 **§ 4.1-254. Retail Tobacco Enforcement Fund.**

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

923
 924

925 **§ 4.1-355. Illegal sale of retail tobacco products in general; penalty.**

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

929 **§ 4.1-356. Packaging of certain retail tobacco products; civil penalty.**

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

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

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

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

942 **§ 4.1-357. Sale or distribution of liquid nicotine container; prohibition; penalty.**

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

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

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

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

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

960 **§ 4.1-358. Purchase of retail tobacco products from person not authorized to sell; penalty.**

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

963 **§ 4.1-359. Persons to whom retail tobacco products may not be sold; proof of legal age; civil penalty.**

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

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

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

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

982 C. A violation of subsection A or B by an individual is punishable by a civil penalty in the amount of
983 \$1,000 for a first violation, a civil penalty in the amount of \$5,000 for a second violation within a three-year
984 period, or a civil penalty in the amount of \$10,000 for a third or subsequent violation within a three-year
985 period. Such civil penalty shall not preclude the Board from taking administrative action against a retail
986 tobacco permittee for the conduct of his agent or employee who violates subsection A or B. If applicable,

987 upon a second or subsequent violation within a three-year period, the Board may suspend or revoke any
988 retail tobacco permit issued pursuant to this subtitle.

989 **§ 4.1-360. Prohibiting possession of retail tobacco products by a person younger than 21 years of age;**
990 **seizure.**

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

1000 B. Any retail tobacco product possessed in violation of this section shall be deemed contraband and may
1001 be seized by a law-enforcement officer. Any such retail tobacco product, the lawful possession of which is not
1002 established, seized by such officer shall be forfeited and disposed of according to the process described in
1003 subdivision A 2 of § 19.2-386.23.

1004 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this
1005 section.

1006 D. The provisions of this section shall not preclude prosecution under any other statute.

1007 **§ 4.1-361. Purchasing retail tobacco products for person to whom they may not be sold; penalty;**
1008 **forfeiture.**

1009 A. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
1010 tobacco products to another person, when he knows or has reason to know that such person is younger than
1011 21 years of age, except (i) where possession of the retail tobacco products by a person younger than 21 years
1012 of age is due to such person's making a delivery of retail tobacco products in pursuance of his employment or
1013 (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to
1014 further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation,
1015 provided that such medical research has been approved by an institutional review board pursuant to
1016 applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et
1017 seq.) of Title 32.1. This subsection shall not apply to the possession of any retail tobacco product by a law-
1018 enforcement officer or his agent when the same is necessary in the performance of his duties.

1019 B. A violation of subsection A by an individual is punishable by a civil penalty in the amount of \$100.
1020 Such civil penalty shall not preclude the Board from taking administrative action against a retail tobacco
1021 permittee for the conduct of his agent or employee who violates subsection A.

1022 C. Any retail tobacco products purchased or possessed in violation of this section shall be deemed
1023 contraband and may be seized by a law-enforcement officer. Any such retail tobacco product, the lawful
1024 possession of which is not established, seized by such officer shall be forfeited and disposed of according to
1025 the process described in subdivision A 2 of § 19.2-386.23.

1026 **§ 15.2-912.4. Regulation of retail tobacco, nicotine, and hemp product retail sale locations.**

1027 Any locality may, by ordinance, regulate ~~the a retail sale locations of retail tobacco establishment, as such~~
1028 ~~term is defined in § 4.1-100, a retail sale location of tobacco products, as such term is defined in § 18.2-371.2~~
1029 ~~58.1-1021.01, or a retail sale location of hemp products intended for smoking, as such term is defined in~~
1030 ~~§ 3.2-4112, for any such retail sale location and may prohibit a retail sale such establishment or location on~~
1031 ~~property within 1,000 linear feet of a child day center as defined in § 22.1-289.02 or a public, private, or~~
1032 ~~parochial school. An ordinance adopted pursuant to this section shall not affect (i) a licensee holding a valid~~
1033 ~~license under § 4.1-206.3 or (ii) any retail sale location of retail tobacco products or, hemp products intended~~
1034 ~~for smoking, or retail tobacco establishments operating before July 1, 2024.~~

1035 **§ 18.2-246.8. Age verification requirements.**

1036 A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless
1037 prior to the first delivery sale to a consumer such person:

1038 1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the
1039 consumer is at least the legal minimum purchase age and (ii) a statement signed by the prospective consumer
1040 in writing that certifies the prospective consumer's address and that the consumer is at least 21 years of age.
1041 Such statement shall also confirm (a) that the prospective consumer understands that signing another person's
1042 name to such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum
1043 purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum
1044 purchase age is illegal under the laws of the Commonwealth;

1045 2. Makes a good faith effort to verify the information contained in the certification provided by the
1046 prospective consumer pursuant to subdivision 1 against a commercially available database of valid,
1047 government-issued identification that contains the date of birth or age of the individual placing the order, or
1048 obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or

1049 age of the individual placing the order;

1050 3. Provides to the prospective consumer, via email or other means, a notice that meets the requirements of
1051 § 18.2-246.9; and

1052 4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has
1053 been issued in such consumer's name or by a check drawn on the consumer's account.

1054 B. 1. ~~Except as provided in § 58.1-1021.06, if~~ *If* a purchase order for a liquid nicotine or nicotine vapor
1055 product, as defined in § 58.1-1021.01, is made via the ~~Internet~~ *internet*, no person shall make a delivery for
1056 such order unless the delivery is to a retail dealer, as defined in § 58.1-1021.01.

1057 2. Persons accepting purchase orders made via the ~~Internet~~ *internet* for delivery sales may request that
1058 prospective consumers provide their email addresses.

1059 **§ 18.2-371.2. Prohibiting sale or distribution, etc. of tobacco and hemp products intended for**
1060 **smoking by persons under 21 years of age; civil penalties.**

1061 A. *As used in this section:*

1062 "*Hemp product*" and "*hemp product intended for smoking*" mean the same as those terms are defined in
1063 § 3.2-4112.

1064 "*Tobacco product*" means the same as that term is defined in § 58.1-1021.01.

1065 B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person
1066 younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years
1067 of age, any ~~retail~~ tobacco product or hemp product intended for smoking.

1068 No person shall sell ~~retail~~ tobacco products or hemp products intended for smoking from a vending
1069 machine.

1070 B. C. No person shall sell a ~~retail~~ tobacco product or hemp product intended for smoking to any individual
1071 who does not demonstrate, by producing a driver's license or similar photo identification issued by a
1072 government agency, that the individual is at least 21 years of age.

1073 Before a ~~retail dealer~~ may sell ~~retail tobacco products, other than cigar and pipe tobacco products as~~
1074 ~~defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the~~
1075 ~~retail tobacco products shall verify that the consumer is of legal age by examining from any person who~~
1076 ~~appears to be under 30 years of age a government-issued photographic identification that establishes that the~~
1077 ~~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~~
1078 ~~§ 59.1-293.12, verifying the identification presented using identification fraud detection software,~~
1079 ~~technology, or a scanner that confirms the authenticity of such identification.~~

1080 This subsection shall not apply to mail order or ~~Internet~~ *internet* sales, provided that the person offering
1081 the ~~retail~~ tobacco product or hemp product intended for smoking for sale through mail order or the ~~Internet~~
1082 *internet* (i) prior to the sale of the ~~retail~~ tobacco product or hemp product intended for smoking verifies that
1083 the purchaser is at least 21 years of age through a commercially available database that is regularly used by
1084 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of
1085 mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the ~~retail~~
1086 tobacco product or hemp product intended for smoking will be released to the purchaser.

1087 C. D. A violation of subsection A B or B C by an individual or by a separate retail establishment is
1088 punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of
1089 \$2,500 for a second or subsequent violation within a three-year period. ~~If applicable, upon a second or~~
1090 ~~subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any~~
1091 ~~approved license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04:1.~~

1092 For any violation of this section by an employee of a retail establishment, (i) such penalty shall be
1093 assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the
1094 employee.

1095 Any attorney for the Commonwealth of the ~~county or city~~ *locality* in which an alleged violation occurred
1096 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any
1097 law-enforcement officer may issue a summons for a violation of subsection A B or B C.

1098 D. E. 1. ~~Cigarettes and hemp~~ *Hemp* products intended for smoking shall be sold only in sealed packages
1099 provided by the manufacturer, with the required health warning. The proprietor of every retail establishment
1100 that offers for sale any ~~retail~~ tobacco product or hemp product intended for smoking shall post in a
1101 conspicuous manner and place a sign or signs indicating that the sale of ~~retail~~ tobacco products or hemp
1102 products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the
1103 ~~county, city, or town~~ *locality* in which an alleged violation of this subsection occurred may enforce this
1104 subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into
1105 the local treasury. No filing fee or other fee or cost shall be charged to the ~~county, city, or town~~ *locality*
1106 which instituted the action.

1107 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
1108 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
1109 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
1110 such regulations.

1111 3. Any attorney for the ~~county, city, or town~~ *locality* in which an alleged violation of this subsection
 1112 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil
 1113 penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the ~~county,~~
 1114 ~~city, or town~~ *locality* which instituted the action.

1115 E. F. Nothing in this section shall be construed to create a private cause of action.

1116 F. G. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
 1117 issue a summons for any violation of this section. ~~Additionally, any retailer selling retail tobacco products~~
 1118 ~~shall be subject to the enforcement, and compliance provisions of Chapter 23.2 (§ 59.1-293.10 et seq.) of~~
 1119 ~~Title 59.1.~~

1120 G. As used in this section:

1121 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized
 1122 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
 1123 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or
 1124 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of
 1125 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any
 1126 (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic
 1127 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
 1128 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination
 1129 products are authorized for sale by the U.S. Food and Drug Administration.

1130 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in
 1131 § 3.2-4112.

1132 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
 1133 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
 1134 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
 1135 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device
 1136 and any substances that may be aerosolized or vaporized by such device, whether or not the substance
 1137 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),
 1138 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling
 1139 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that
 1140 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms
 1141 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such
 1142 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

1143 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for
 1144 smoking in a manner similar to a cigarette or cigar.

1145 **§ 18.2-371.2:1. Prohibiting possession of hemp products intended for smoking by a person younger**
 1146 **than 21 years of age; seizure.**

1147 A. No person younger than 21 years of age shall possess any ~~retail~~ tobacco product, *as that term is defined*
 1148 *in § 58.1-1021.01*, or hemp product intended for smoking, ~~as those terms are~~ *as that term is defined in §*
 1149 ~~18.2-371.2 3.2-4112~~. The provisions of this section shall not be applicable to the possession of ~~retail~~ tobacco
 1150 products or hemp products intended for smoking by a person younger than 21 years of age (i) making a
 1151 delivery of ~~retail~~ tobacco products or hemp products intended for smoking in pursuance of his employment or
 1152 (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to
 1153 further efforts in ~~cigarette and~~ tobacco use prevention and cessation and tobacco product regulation, provided
 1154 that such medical research has been approved by an institutional review board pursuant to applicable federal
 1155 regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1.
 1156 This subsection shall not apply to the possession of any ~~retail~~ tobacco product or hemp product intended for
 1157 smoking by a law-enforcement officer or his agent when the same is necessary in the performance of his
 1158 duties.

1159 B. Any ~~retail~~ tobacco product, *as that term is defined in § 58.1-1021.01*, or hemp product intended for
 1160 smoking, ~~as those terms are~~ *as that term is defined in § 18.2-371.2 3.2-4112*, possessed in violation of this
 1161 section shall be deemed contraband and may be seized by a law-enforcement officer. Any such product, the
 1162 lawful possession of which is not established, seized by such officer shall be forfeited and disposed of
 1163 according to the process described in subdivision A 2 of § 19.2-386.23.

1164 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this
 1165 section.

1166 D. The provisions of this section shall not preclude prosecution under any other statute.

1167 **§ 18.2-391. Unlawful acts; penalties.**

1168 A. It ~~shall be~~ *is* unlawful for any person to sell, rent, or loan to a juvenile, knowing or having reason to
 1169 know that such person is a juvenile, or to knowingly display for commercial purpose in a manner whereby
 1170 juveniles may examine and peruse:

1171 1. Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or
 1172 computer game, electronic file or message containing an image, or similar visual representation or image of a

1173 person or portion of the human body ~~which that~~ depicts sexually explicit nudity, sexual conduct, or
 1174 sadomasochistic abuse and ~~which that~~ is harmful to juveniles, or

1175 2. Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message
 1176 containing words, or sound recording ~~which that~~ contains any matter enumerated in subdivision 1 ~~of this~~
 1177 ~~subsection~~, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual
 1178 conduct, or sadomasochistic abuse and ~~which that~~, taken as a whole, is harmful to juveniles.

1179 However, if a person uses services of an ~~Internet internet~~ service provider or an electronic mail service
 1180 provider in committing acts prohibited under this subsection, such ~~Internet internet~~ service provider or
 1181 electronic mail service provider shall not be held responsible for violating this subsection.

1182 B. It ~~shall be~~ *is* unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or
 1183 knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show, or other
 1184 presentation ~~which that~~, in whole or in part, depicts sexually explicit nudity, sexual conduct, or
 1185 sadomasochistic abuse and ~~which that~~ is harmful to juveniles or to exhibit any such motion picture at any
 1186 such premises ~~which that~~ are not designed to prevent viewing from any public way of such motion picture by
 1187 juveniles not admitted to any such premises.

1188 C. It ~~shall be~~ *is* unlawful for any juvenile falsely to represent to any person mentioned in subsection A or
 1189 ~~subsection B hereof~~, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure
 1190 any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion
 1191 picture, show, or other presentation, as set forth in subsection B.

1192 D. It ~~shall be~~ *is* unlawful for any person knowingly to make a false representation to any person
 1193 mentioned in subsection A or ~~subsection B hereof~~ or to his agent, that he is the parent or guardian of any
 1194 juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection
 1195 A, or with the intent to procure such juvenile's admission to any motion picture, show, or other presentation,
 1196 as set forth in subsection B.

1197 E. No person shall sell, rent, or loan any item described in subdivision A 1 or A 2 to any individual who
 1198 does not demonstrate his age in accordance with the provisions of subsection ~~B C~~ of § 18.2-371.2.

1199 F. A violation of subsection A, B, C, or D is a Class 1 misdemeanor. A person or separate retail
 1200 establishment who violates subsection E shall be liable for a civil penalty not to exceed \$100 for a first
 1201 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for
 1202 a third or subsequent violation.

1203 **§ 58.1-1021.04:1. Distributor's or remote retail seller's license; penalties.**

1204 A. 1. No person shall engage in the business of selling or dealing in tobacco products as a distributor in
 1205 the Commonwealth without first having received a separate license from the Department for each location or
 1206 place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed
 1207 by the Department. Every application for such license shall be made on a form prescribed by the Department
 1208 and the following information shall be provided on the application:

1209 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1210 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
 1211 of each of its principal officers shall be provided;

1212 b. The address of the applicant's principal place of business;

1213 c. The place or places where the business to be licensed is to be conducted; and

1214 d. Such other information as the Department may require for the purpose of the administration of this
 1215 article.

1216 2. A person outside the Commonwealth who ships or transports tobacco products to retailers in the
 1217 Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted
 1218 such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license
 1219 is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless
 1220 such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601 et seq.), 10 (§ 13.1-801 et seq.),
 1221 12 (§ 13.1-1000 et seq.), or 14 (§ 13.1-1200 et seq.) of Title 13.1 or Chapter 2.1 (§ 50-73.1 et seq.) or 2.2
 1222 (§ 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of the State Corporation
 1223 Commission as the person's agent for the purpose of service of process relating to any matter or issue
 1224 involving the person and arising under the provisions of this article.

1225 The Department shall conduct a background investigation, to include a Virginia criminal history records
 1226 search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged
 1227 in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of
 1228 Investigation if the Department deems a national criminal records search necessary, on applicants for
 1229 licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may
 1230 suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation,
 1231 limited liability company, or business trust if it determines that the principals, managers, and other persons
 1232 engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of
 1233 any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny,
 1234 embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted

1235 of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
 1236 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application
 1237 for a distributor's license to the Department, is guilty of a Class 1 misdemeanor. The Department may
 1238 establish an application or renewal fee not to exceed \$750 to be retained by the Department to be applied to
 1239 the administrative and other costs of processing distributor's license applications, conducting background
 1240 investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of
 1241 such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into
 1242 the state treasury.

1243 3. No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco
 1244 to consumers in the Commonwealth without (i) completing an application for and being granted a license as a
 1245 remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for
 1246 a dealer's certificate under § 58.1-613; (iii) if economic nexus thresholds are met, collecting and remitting the
 1247 excise tax pursuant to subsection A of § 58.1-1021.02; (iv) providing for age verification through an
 1248 independent, third-party age verification service that compares information available from a commercially
 1249 available database, or aggregate of databases, that is regularly used by government agencies and businesses
 1250 for the purpose of age and identity verification to the personal information entered by the individual during
 1251 the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are
 1252 met and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the
 1253 remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail
 1254 sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to
 1255 a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

1256 B. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1257 shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the
 1258 licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a
 1259 copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be
 1260 transferable to any other person. Distributor's licenses issued pursuant to this section shall be valid for a
 1261 period of three years from the date of issue unless revoked by the Department in the manner provided herein.
 1262 The Department may at any time revoke the license issued to any distributor who is found guilty of violating
 1263 or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and
 1264 promulgated under authority of this chapter. The Department shall suspend or revoke the license issued to
 1265 any distributor who is found guilty of a second or subsequent violation of subsection A or B or C of
 1266 § 18.2-371.2.

1267 C. 1. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor
 1268 products or shipping or transporting liquid nicotine or nicotine vapor products to retailers in the
 1269 Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the
 1270 Commonwealth without first having received a separate license from the Department for each location or
 1271 place of business, and any person who violates such prohibition shall be subject to a penalty of \$400 in
 1272 addition to any other applicable taxes or fees. Each application for a manufacturer's, distributor's, or retail
 1273 dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by
 1274 the Department. Any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for
 1275 Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued
 1276 by the Department shall not be required to obtain a license under this subsection. Every application for such
 1277 liquid nicotine and nicotine vapor products license shall be made on a form prescribed by the Department and
 1278 the following information shall be provided on the application:

1279 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1280 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
 1281 of each of its principal officers shall be provided;

1282 b. The address of the applicant's principal place of business;

1283 c. The place or places where the business to be licensed is to be conducted; and

1284 d. Such other information as the Department may require for the purpose of the administration of this
 1285 article.

1286 2. The Department shall conduct a background investigation, to include a Virginia criminal history
 1287 records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine
 1288 vapor products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the
 1289 Department deems a national criminal records search necessary, on applicants for licensure as a liquid
 1290 nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may
 1291 refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person,
 1292 partnership, corporation, limited liability company, or business trust if it determines that the principals and
 1293 managers at the licensable location of the applicant have been (i) found guilty of any fraud or
 1294 misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,
 1295 fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a
 1296 felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a

1297 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in
 1298 any application for a license to the Department is guilty of a Class 1 misdemeanor. The Department may
 1299 establish an application or renewal fee to be retained by the Department to be applied to the administrative
 1300 and other costs of processing license applications, conducting background investigations, and issuing
 1301 licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-
 1302 numbered years shall be reported to the State Treasurer and deposited into the state treasury.

1303 3. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1304 shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor
 1305 products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail
 1306 dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently
 1307 displayed on the premises covered by the license. No license shall be transferable to any other person,
 1308 partnership, corporation, limited liability company, or business trust; however, the Department may grant a
 1309 temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail
 1310 dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses,
 1311 other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of
 1312 issue unless revoked by the Department in the manner provided in this section. The Department may at any
 1313 time suspend or revoke the approved license, permit, or registration issued in accordance with this subsection
 1314 to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or
 1315 any of the rules of the Department adopted and promulgated under authority of this chapter. Any person
 1316 authorized to sell liquid nicotine or nicotine vapor products pursuant to this subsection shall, as a condition of
 1317 renewing or extending an approved license, permit, or registration, be required to submit to the Department
 1318 an accurate record of any taxes paid on liquid nicotine pursuant to § 58.1-1021.02.

1319 4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not
 1320 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid
 1321 nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found
 1322 guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

1323 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;

1324 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension
 1325 of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i)
 1326 of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30
 1327 years of age is of legal age by verifying such consumer's government-issued photographic identification using
 1328 fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

1329 e. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the liquid
 1330 nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor
 1331 products license for a period of three years from the date of the most recent violation.

1332 5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine
 1333 vapor products without verifying that the consumer is of legal age by examining from any person who
 1334 appears to be under 30 years of age a government-issued photographic identification that establishes that the
 1335 person is of legal age or providing for age verification through an independent age verification service that
 1336 compares information available from a commercially available database, or aggregate of databases, that is
 1337 regularly used by government agencies and businesses for the purpose of age and identity verification to the
 1338 personal information entered by the individual during the ordering process that establishes that the individual
 1339 is of age.

1340 6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor
 1341 products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales
 1342 receipt involved that shall include itemized lists of the types of products included in such transaction, the tax
 1343 due on each product pursuant to subsection B of § 58.1-1021.02, and the total amount of taxes paid. Such
 1344 records shall be produced and provided to the Department as necessary for auditing, compliance, and
 1345 enforcement purposes.

1346 D. C. The Department shall compile and maintain a current list of licensed distributors and remote retail
 1347 sellers of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and
 1348 nicotine vapor products. The list shall be updated on a monthly basis and published on the Department's
 1349 website, available to any interested party.

1350 § 59.1-200. Prohibited practices.

1351 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
 1352 transaction are hereby declared unlawful:

1353 1. Misrepresenting goods or services as those of another;

1354 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

1355 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
 1356 with another;

1357 4. Misrepresenting geographic origin in connection with goods or services;

1358 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or

1359 benefits;

1360 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

1361 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
1362 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
1363 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
1364 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
1365 "not first class";

1366 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
1367 price or upon the terms advertised.

1368 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
1369 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
1370 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
1371 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
1372 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
1373 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
1374 reasonably expected to have at least such quantity or amount for sale;

1375 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
1376 price reductions;

1377 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
1378 installed;

1379 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
1380 for merchandise or services previously ordered;

1381 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
1382 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
1383 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
1384 goods or services advertised or offered for sale;

1385 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
1386 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
1387 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
1388 statutes or regulations;

1389 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
1390 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
1391 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
1392 provide, use, or include the statement, disclosure, notice, or other information in connection with the
1393 consumer transaction;

1394 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
1395 with a consumer transaction;

1396 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,
1397 or 3.2-6519 is a violation of this chapter;

1398 16. Failing to disclose all conditions, charges, or fees relating to:

1399 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
1400 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
1401 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
1402 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
1403 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
1404 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
1405 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
1406 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
1407 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
1408 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
1409 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
1410 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
1411 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
1412 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

1413 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
1414 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
1415 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
1416 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

1417 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
1418 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
1419 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
1420 overpayments. If the credit balance information is incorporated into statements of account furnished

- 1421 consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 1422 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
1423 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;
- 1424 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 1425 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);
- 1426 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);
- 1427 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
1428 et seq.);
- 1429 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 1430 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
1431 seq.);
- 1432 24. Violating any provision of § 54.1-1505;
- 1433 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
1434 (§ 59.1-207.34 et seq.);
- 1435 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 1436 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 1437 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 1438 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 1439 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
1440 seq.);
- 1441 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 1442 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 1443 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 1444 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 1445 35. Using the consumer's social security number as the consumer's account number with the supplier, if
1446 the consumer has requested in writing that the supplier use an alternate number not associated with the
1447 consumer's social security number;
- 1448 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 1449 37. Violating any provision of § 8.01-40.2;
- 1450 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 1451 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 1452 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 1453 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
1454 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
1455 § 59.1-526;
- 1456 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 1457 43. Violating any provision of § 59.1-443.2;
- 1458 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 1459 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 1460 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 1461 47. Violating any provision of § 18.2-239;
- 1462 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 1463 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
1464 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
1465 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
1466 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
1467 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
1468 products that are used, secondhand or "seconds";
- 1469 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 1470 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 1471 52. Violating any provision of § 8.2-317.1;
- 1472 53. Violating subsection A of § 9.1-149.1;
- 1473 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
1474 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
1475 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
1476 drywall has been permanently installed or affixed;
- 1477 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
1478 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
1479 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
1480 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
1481 seq.) of Title 54.1;
- 1482 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

- 1483 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 1484 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 1485 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 1486 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 1487 59. Violating any provision of subsection E of § 32.1-126;
- 1488 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 1489 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 1490 61. Violating any provision of § 2.2-2001.5;
- 1491 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 1492 63. Violating any provision of § 6.2-312;
- 1493 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 1494 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 1495 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 1496 67. Knowingly violating any provision of § 8.01-27.5;
- 1497 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 1498 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 1499 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 1500 obligation to pay for the goods or services;
- 1501 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 1502 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 1503 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 1504 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 1505 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 1506 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 1507 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1508 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
- 1509 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
- 1510 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 1511 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
- 1512 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1513 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 1514 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
- 1515 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
- 1516 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
- 1517 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
- 1518 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
- 1519 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
- 1520 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
- 1521 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
- 1522 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
- 1523 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
- 1524 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 1525 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
- 1526 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1527 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
- 1528 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
- 1529 that depicts or is in the shape of a human, animal, vehicle, or fruit;
- 1530 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 1531 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
- 1532 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
- 1533 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
- 1534 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
- 1535 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;
- 1536 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
- 1537 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
- 1538 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 1539 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
- 1540 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
- 1541 1, 2023, provided that the person provides documentation of the date of manufacture if requested;
- 1542 75. Violating any provision of § 59.1-466.8;
- 1543 76. Violating subsection F of § 36-96.3:1;
- 1544 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any

1545 kratom product that does not include a label listing all ingredients and with the following guidance: "This
 1546 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
 1547 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
 1548 plant *Mitragyna speciosa* or any extract thereof;

1549 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
 1550 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
 1551 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
 1552 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
 1553 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
 1554 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
 1555 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
 1556 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
 1557 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
 1558 location;

1559 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
 1560 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
 1561 such good or provision of any such continuous service;

1562 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

1563 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
 1564 residential dwelling without holding a mold remediation certification from a nationally or internationally
 1565 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
 1566 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
 1567 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent
 1568 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
 1569 Commonwealth;

1570 82. Willfully violating any provision of § 59.1-444.4;

1571 83. Violating any provision of ~~Chapter 23.2 (§ 59.1-293.10 et seq.)~~ §§ 4.1-253, 4.1-356, 4.1-357, or
 1572 59.1-293.15 through 59.1-293.22;

1573 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
 1574 requirements of 21 C.F.R. Part 101;

1575 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual
 1576 health information without the consent of the consumer;

1577 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

1578 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
 1579 seq.).

1580 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
 1581 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
 1582 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
 1583 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

1584 § 59.1-293.10. Definitions.

1585 As used in this chapter, unless the context requires ~~another~~ a different meaning:

1586 "Child-resistant packaging" means packaging that is designed or constructed to meet the child-resistant
 1587 effectiveness standards set forth in 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the protocols
 1588 described in 16 C.F.R. § 1700.20 as in effect on July 1, 2015.

1589 "Department" means the Department of Taxation.

1590 "Liquid nicotine" means the same as that term is defined in ~~§ 58.1-1021.01~~ 4.1-100.

1591 "Liquid nicotine container" means a bottle or other container holding liquid nicotine in any concentration
 1592 but does not include a cartridge containing liquid nicotine if such cartridge is prefilled and sealed by the
 1593 manufacturer of such cartridge and is not intended to be opened by the consumer.

1594 "Nicotine vapor product" means the same as that term is defined in ~~§ 58.1-1021.01~~ and includes liquid
 1595 nicotine containers 4.1-100.

1596 "Retail dealer" means the same as that term is defined in § 58.1-1021.01.

1597 "Retail tobacco establishment" means the same as that term is defined in § 4.1-100.

1598 "Retail tobacco permit" means the same as that term is defined in § 4.1-100.

1599 "Retail tobacco permittee" means the same as that term is defined in § 4.1-100.

1600 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
 1601 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
 1602 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
 1603 tobacco product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that
 1604 may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any
 1605 component, part, or accessory of a product described in clause (i) or (ii), whether or not such component,
 1606 part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and

1607 glass pipes. "Retail tobacco product" includes any nicotine vapor product. "Retail tobacco product" does not
 1608 include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term
 1609 is used in 21 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S.
 1610 Food and Drug Administration. "Retail tobacco product" does not include any cigar or pipe tobacco as
 1611 defined in ~~§ 58.1-1021.01~~ *the same as that term is defined in § 4.1-100.*

1612 "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association,
 1613 organization, or corporation that owns, operates, or manages any tobacco retail establishment. "Tobacco
 1614 retailer" does not include nonmanagement employees of a tobacco retail establishment *the same as that term*
 1615 *is defined in § 4.1-100.*

1616 "Tobacco retail establishment" means any place of business where retail tobacco products are available
 1617 for sale to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience
 1618 store, gasoline service station, bar, or restaurant where retail tobacco products are available for sale to the
 1619 general public.

1620 **§ 59.1-293.13. Required education for retail dealers and employees.**

1621 Any retail dealer shall be required to attest that it has conducted education and training for its employees
 1622 related to:

- 1623 1. The provisions of ~~§ 59.1-293.12~~ *Article 4 (§ 4.1-355 et seq.) of Chapter 3 of Title 4.1;*
- 1624 2. The prohibitions on the sale of retail tobacco products to persons under age 21 and other restrictions
 1625 prescribed by §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2;
- 1626 3. Forms of identification that are acceptable as proof of age; and
- 1627 4. The legal penalties that may be incurred for violation of the provisions of law identified in subdivisions
 1628 1 and 2.

1629 **§ 59.1-293.15. Liquid nicotine and nicotine vapor product; directory.**

1630 The Attorney General shall establish and maintain a directory that lists all liquid nicotine or nicotine vapor
 1631 product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate
 1632 certification forms have been submitted in accordance with the provisions of ~~§ 59.1-293.13~~ *59.1-293.16*. The
 1633 Attorney General shall make the directory available for public inspection on its website. The Attorney
 1634 General shall update the directory as necessary.

1635 **§ 59.1-293.16. Liquid nicotine and nicotine vapor product; certification; penalty.**

1636 A. ~~By December 31, 2025, and annually thereafter, every~~ *Every* manufacturer of liquid nicotine or
 1637 nicotine vapor products that are sold for retail sale in the Commonwealth, whether directly or through a
 1638 wholesaler, distributor, retailer, or similar intermediary, shall *annually* certify in a form and manner as
 1639 prescribed by the Attorney General that the manufacturer agrees to comply with the provisions of this chapter
 1640 and that:

- 1641 1. The manufacturer has received a marketing authorization or similar order for the liquid nicotine or
 1642 nicotine vapor product from the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j; or
- 1643 2. The liquid nicotine or nicotine vapor product was marketed in the United States as of August 8, 2016,
 1644 or the manufacturer submitted a premarket tobacco product application for the liquid nicotine or nicotine
 1645 vapor product to the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j on or before
 1646 September 9, 2020, and the application either remains under review by the U.S. Food and Drug
 1647 Administration or a final decision on the application has not otherwise taken effect.

1648 B. A manufacturer of liquid nicotine or nicotine vapor products shall submit a certification *or*
 1649 *recertification* form for each liquid nicotine and nicotine vapor product that such manufacturer sells for retail
 1650 sale in the Commonwealth.

1651 C. Each certification *or recertification* form shall be accompanied by:

- 1652 ~~1. A~~ a copy of the marketing authorization or other order for each liquid nicotine or nicotine vapor
 1653 product issued by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j, or evidence that the
 1654 premarket tobacco product application for the liquid nicotine or nicotine vapor product was submitted to the
 1655 U.S. Food and Drug Administration and a final authorization or order has not yet taken effect; *and*

1656 ~~2. A~~ 1. An initial certification fee of ~~\$2,000~~ *\$5,000* for each liquid nicotine and nicotine vapor product; to
 1657 be remitted with the manufacturer's first certification submission that identifies any such product and with
 1658 any resubmission of a certification for any such product following any period of noncertified status; *and or*

1659 ~~3. A~~ 2. An annual recertification fee of ~~\$500 to be submitted annually~~ *\$2,500* for each liquid nicotine and
 1660 nicotine vapor product to be remitted with the manufacturer's annual recertification submission identifying
 1661 any ~~liquid nicotine or nicotine vapor~~ *such* product, where such recertification does not follow any period of
 1662 noncertified status.

1663 D. A manufacturer required to submit a certification pursuant to this section shall notify the Attorney
 1664 General within 30 days of any material change to the certification form, including the issuance or denial of a
 1665 marketing authorization or other order or action by the U.S. Food and Drug Administration pursuant to 21
 1666 U.S.C. § 387j, or any other order or action by the U.S. Food and Drug Administration that affects the ability
 1667 of the liquid nicotine or nicotine vapor product to be introduced or delivered into interstate commerce for
 1668 commercial distribution in the United States.

1669 E. Any manufacturer that falsely represents any of the information required by this section is guilty of a
 1670 Class 3 misdemeanor for each false representation. *Notwithstanding the provisions of § 2.2-511, the Attorney*
 1671 *General may institute or conduct a prosecution for a violation of this subsection.* Venue for prosecution of a
 1672 *such violation of this subsection shall be proper in the Circuit Court for the City of Richmond.*

1673 **§ 59.1-293.17. Removal or exclusion from directory.**

1674 A. The Attorney General shall, in accordance with the provisions of this section, remove or exclude from
 1675 the directory any liquid nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor
 1676 product that the Attorney General determines is not in compliance with the provisions of this chapter.

1677 B. If the Attorney General determines to remove or exclude from the directory a liquid nicotine or
 1678 nicotine vapor product manufacturer or a liquid nicotine or nicotine vapor product in the directory, the
 1679 Attorney General shall notify by electronic or other practicable means the manufacturer's registered agent in
 1680 the Commonwealth of such determination. The liquid nicotine or nicotine vapor product manufacturer shall
 1681 have 10 business days from receipt of such notice to establish that the liquid nicotine or nicotine vapor
 1682 product manufacturer or liquid nicotine or nicotine vapor product meets the requirements to be included in
 1683 the directory. If the liquid nicotine or nicotine vapor product manufacturer fails to establish compliance
 1684 within the 10-business-day period, the Attorney General shall remove or exclude from the directory the liquid
 1685 nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor product.

1686 C. Any determination by the Attorney General to remove or exclude from the directory a manufacturer or
 1687 a product shall be subject to review by the filing of a civil action for prospective declaratory or injunctive
 1688 relief in the Circuit Court for the City of Richmond.

1689 D. If a liquid nicotine or nicotine vapor product is removed from the directory:

1690 1. Each retailer, distributor, and wholesaler shall have 30 days to sell the product or remove such product
 1691 intended for retail sale in the Commonwealth from its inventory and return the product to the manufacturer
 1692 for disposal. After ~~24~~ 30 days following the removal from the directory, the liquid nicotine and nicotine vapor
 1693 products removed from the directory shall be subject to seizure, forfeiture, and destruction *by the Attorney*
 1694 *General, the attorney for the Commonwealth, or the attorney for the county, city, or town or by a law-*
 1695 *enforcement officer* and shall not be purchased or sold in the Commonwealth.

1696 2. Each manufacturer, wholesaler, or retail dealer selling the product intended for retail sale in the
 1697 Commonwealth shall notify each purchaser of the product that it has been removed from the directory at the
 1698 time of delivery of such product. Unless otherwise provided by contract or purchase agreement, the
 1699 manufacturer, wholesaler, or retail dealer shall provide the purchaser a refund of the purchase price of the
 1700 removed product. If a manufacturer, wholesaler, or retail dealer fails to provide such refund, the purchaser
 1701 may bring an action against the manufacturer, wholesaler, or retail dealer in a court of competent jurisdiction
 1702 to recover the purchase price and reasonable attorney fees and costs.

1703 **§ 59.1-293.18. Agent for service of process.**

1704 A. Any nonresident manufacturer of liquid nicotine or nicotine vapor products that has not registered to
 1705 do business in the Commonwealth as a foreign corporation or business entity shall, as a condition precedent
 1706 to being included in the directory established by the Attorney General pursuant to ~~§ 59.1-293.12~~ *59.1-293.15*,
 1707 appoint and continually engage without interruption the services of an agent in the Commonwealth to act as
 1708 agent for the service of process in any action or proceeding against such nonresident manufacturer concerning
 1709 or arising out of the enforcement of this chapter, and such nonresident manufacturer may be served in any
 1710 manner authorized by law. Such service shall constitute legal and valid service of process on the nonresident
 1711 manufacturer. The manufacturer shall provide the name, address, telephone number, and proof of the
 1712 appointment and availability of such agent to the Attorney General.

1713 B. The manufacturer shall provide notice to the Attorney General 30 calendar days prior to termination of
 1714 the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the
 1715 appointment of a new agent no less than five calendar days prior to the termination of an existing agent
 1716 appointment. In the event an agent terminates an agency appointment, the manufacturer shall notify the
 1717 Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the
 1718 Attorney General of the appointment of a new agent.

1719 C. Any manufacturer whose liquid nicotine or nicotine vapor products are sold in the Commonwealth who
 1720 has not appointed and engaged the services of an agent as required by this section shall be deemed to have
 1721 appointed the Secretary of the Commonwealth as its agent for service of process. The appointment of the
 1722 Secretary of the Commonwealth as agent shall not satisfy the condition precedent required in subsection A to
 1723 be included in the directory.

1724 **§ 59.1-293.20. Sale or distribution prohibited.**

1725 A. Beginning December 31, 2025, no person shall sell, distribute, or import for resale, or offer for sale a
 1726 liquid nicotine or nicotine vapor product for retail sale in the Commonwealth unless such liquid nicotine or
 1727 nicotine vapor product is included in the directory established by the Attorney General pursuant to ~~§~~
 1728 ~~59.1-293.12~~ *59.1-293.15*.

1729 B. Beginning December 31, 2025, no liquid nicotine or nicotine vapor product manufacturer shall sell for
 1730 retail sale, either directly or through a wholesaler, distributor, retailer, or similar intermediary or

1731 intermediaries, a liquid nicotine or nicotine vapor product in the Commonwealth unless such liquid nicotine
 1732 or nicotine vapor product is included in the directory established by the Attorney General pursuant to §
 1733 ~~59.1-293.12~~ 59.1-293.15.

1734 C. Any person that violates the provisions of subsection A or B is subject to a fine of \$1,000 per day for
 1735 each product offered for sale in violation until the offending product is removed from the market or until the
 1736 offending product is properly listed on the directory.

1737 ~~D. A liquid nicotine or nicotine vapor product manufacturer that violates the provisions of subsection B is~~
 1738 ~~subject to a fine of \$1,000 per day for each product offered for sale in violation until the offending product is~~
 1739 ~~removed from the market or until the offending product is properly listed on the directory.~~

1740 E. the following civil penalties:

1741 1. For the first violation, a penalty of no less than \$5,000 per liquid nicotine or nicotine vapor product
 1742 offered for sale;

1743 2. For a second violation, a penalty of no less than \$10,000 per liquid nicotine or nicotine vapor product
 1744 offered for sale; and

1745 3. For a third violation, a penalty of no less than \$15,000 per liquid nicotine or nicotine vapor product
 1746 offered for sale.

1747 D. Each retailer shall have 60 days from the date that the Attorney General first makes the directory
 1748 available for inspection on its public website to sell any products that were in its inventory and not included
 1749 in the directory or to remove from inventory and return such products to the manufacturer for disposal.

1750 ~~F. E. Each distributor or wholesaler shall have 60 days from the date that the Attorney General first makes~~
 1751 ~~the directory available for inspection on its public website to remove any products intended for sale in the~~
 1752 ~~Commonwealth from its inventory and return such products to the manufacturer for disposal.~~

1753 ~~G. F. Any liquid nicotine or nicotine vapor product sold or offered for sale in violation of this section~~
 1754 ~~shall be deemed contraband and may be seized by a law-enforcement officer. Any such product, the lawful~~
 1755 ~~possession of which is not established, seized by such officer shall be forfeited and destroyed or disposed of.~~
 1756 ~~The cost of such seizure, forfeiture, and destruction or disposal shall be borne by the person from whom the~~
 1757 ~~products are confiscated.~~

1758 G. In an action brought under this section, *the Attorney General*, the attorney for the Commonwealth, or
 1759 the attorney for the county, city, or town may recover reasonable costs of investigation, the costs of the
 1760 action, and attorney fees *in addition to any civil penalties*.

1761 H. Any civil penalties, costs, and attorney fees assessed under this section in an action brought ~~in the~~
 1762 ~~name of a locality by an attorney for the Commonwealth or an attorney for a county, city, or town~~ shall be
 1763 paid into the general fund of the locality.

1764 I. All civil penalties, costs, and attorney fees assessed under this section in an action brought by the
 1765 Attorney General and fees collected by the Attorney General pursuant to ~~this chapter~~ § 59.1-293.16 shall be
 1766 used for the administration and enforcement of this chapter.

1767 **§ 59.1-293.21. Enforcement; inspection; forfeiture.**

1768 A. Notwithstanding any other provisions of law to the contrary, *the Attorney General*, any attorney for the
 1769 Commonwealth, or the attorney for any city, county, or town may cause an action to be brought in the
 1770 appropriate circuit court in the name of the Commonwealth or of the county, city, or town to enjoin any
 1771 violation of this chapter. The circuit court having jurisdiction may enjoin such violations notwithstanding the
 1772 existence of an adequate remedy at law. In any action under this section, it shall not be necessary that
 1773 damages be proved.

1774 B. The circuit courts are authorized to (i) issue temporary or permanent injunctions to restrain and prevent
 1775 violations of this chapter and (ii) order forfeiture of any property seized for a violation of this chapter.

1776 C. Each violation of this chapter shall constitute a separate violation and shall be subject to any penalties
 1777 imposed under this chapter.

1778 D. Any retailer or wholesaler that sells or distributes any liquid nicotine or nicotine vapor product in the
 1779 Commonwealth shall be subject to scheduled or unscheduled compliance checks carried out by the Attorney
 1780 General, or an agent thereof, for the purposes of enforcing the provisions of this chapter *and* § 4.1-253,
 1781 4.1-356, or 4.1-357.

1782 E. Any liquid nicotine or nicotine vapor product not included in the directory established pursuant to
 1783 § 59.1-293.15 that is sold, offered for sale, or possessed for sale in the Commonwealth, or imported for
 1784 personal consumption in the Commonwealth shall be subject to seizure, forfeiture, and destruction by the
 1785 Attorney General, the attorney for the Commonwealth or the locality, or a law-enforcement officer. Any such
 1786 liquid nicotine or nicotine vapor product shall be deemed contraband, may not be sold or offered for sale,
 1787 and shall be subject to confiscation and forfeiture. Any such confiscation and forfeiture shall be governed by
 1788 the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, which shall apply *mutatis*
 1789 *mutandis*, except that all such liquid nicotine or nicotine vapor product so confiscated and forfeited shall be
 1790 destroyed or disposed of and not resold. The cost of such seizure, forfeiture, and destruction or disposal shall
 1791 be borne by the person from whom the products are confiscated.

1792 F. Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200

1793 *and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act*
1794 *(§ 59.1-196 et seq.).*

1795 **2. That §§ 58.1-1021.06 through 58.1-1021.09 and 59.1-293.11, 59.1-293.12, and 59.1-293.14 of the Code**
1796 **of Virginia are repealed.**

1797 **3. That for each retail tobacco permittee, the Board of Directors of the Virginia Alcoholic Beverage**
1798 **Control Authority (the Board) shall conduct an unannounced underage buyer operation at least once**
1799 **every 24 months to verify that the retail tobacco permittee is not selling retail tobacco products to**
1800 **persons under 21 years of age. If the Board determines that the retail tobacco permittee has violated**
1801 **the provisions of § 4.1-359 of the Code of Virginia, as created by this act, the Board shall conduct an**
1802 **additional underage buyer operation of the retail tobacco permittee within six months of a Board order**
1803 **substantiating such violation.**

1804 **4. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall**
1805 **provide an annual report, beginning December 1, 2026, to the General Assembly on the efficacy of an**
1806 **unannounced underage buyer operation to verify that each retail tobacco licensee is not selling retail**
1807 **tobacco products to persons younger than 21 years of age.**

1808 **5. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall enter into a**
1809 **memorandum of understanding with the Office of the Attorney General (the Office) no later than July**
1810 **1, 2026, that includes provisions for the Authority and the Office to (i) coordinate in the**
1811 **implementation of the provisions of this act; (ii) cooperate in the mutual regulation of retail tobacco**
1812 **products, as such term is defined in § 4.1-100 of the Code of Virginia, as amended by this act; and (iii)**
1813 **jointly fund such implementation and regulation from any revenues generated by retail tobacco**
1814 **licenses issued and penalties imposed under the provisions of this act.**

1815 **6. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall**
1816 **promulgate regulations to implement the provisions of this act by December 1, 2026. With the**
1817 **exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process**
1818 **Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant**
1819 **thereto shall apply to the adoption of any regulation pursuant to this act. Prior to adopting any**
1820 **regulation pursuant to this act, the Board shall publish a notice of opportunity to comment in the**
1821 **Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice**
1822 **of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the**
1823 **proposed regulation; and (iii) the name, address, and telephone number of the agency contact person**
1824 **responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the**
1825 **last date prescribed in such notice for submittals of public comment.**

1826 **7. That the provisions of the first, second, and third enactments of this act shall become effective on**
1827 **October 1, 2026.**