

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, 19.2-386.21, 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, 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 by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.37; and to repeal §§ 58.1-1021.06 through 58.1-1021.09, 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.

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Approved

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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, 19.2-386.21, 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, 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 by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.37 as follows:

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§ 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.

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

58 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20
59 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
60 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
61 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless ~~Internet~~ internet services, (v) is equipped
62 with charging stations at every seat for cellular phones or other portable devices, and (vi) during the
63 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in
64 this subtitle or Board regulation.

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

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

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

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

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

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

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

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

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

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

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

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

113 "*Electronic smoking device*" means any device that may be used to deliver any aerosolized or vaporized
114 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
115 hookah. "*Electronic smoking device*" includes any component, part, or accessory of the device, whether or
116 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use
117 of the device, whether or not the substance contains nicotine. "*Electronic smoking device*" does not include
118 any (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products.

119 *"Electronic smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321,*
 120 *or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination*
 121 *products are authorized for sale by the U.S. Food and Drug Administration.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

180 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol

181 content of 25 percent by volume.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

243 "Residence" means any building or part of a building or structure where a person resides, but does not
 244 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a
 245 hotel or club other than a private guest room thereof.

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

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

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

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

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

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

278 "Retail tobacco permittee" means any tobacco retailer to whom a retail tobacco permit has been issued
 279 by the Board.

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

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

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

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

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

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

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

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

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

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

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

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

327 The Board shall have the power to:

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

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

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

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

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

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

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

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

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

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

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

- 367 12. Buy and sell any mixers;
- 368 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
- 369 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
- 370 (clothing);
- 371 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
- 372 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
- 373 operated and the location of such stores;
- 374 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
- 375 beverages to and from such warehouses;
- 376 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
- 377 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
- 378 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
- 379 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
- 380 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
- 381 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
- 382 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
- 383 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
- 384 terms and conditions as may be determined by the Board; and occupy and improve any land or building
- 385 required for the purposes of this subtitle;
- 386 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
- 387 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and
- 388 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
- 389 beverages;
- 390 19. Determine the nature, form, and capacity of all containers used for holding alcoholic beverages to be
- 391 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;
- 392 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
- 393 alcohol;
- 394 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds
- 395 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of
- 396 experts and professionals;
- 397 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
- 398 of records, memoranda, papers, and other documents before the Board or any agent of the Board; and
- 399 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the
- 400 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
- 401 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may
- 402 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement
- 403 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such
- 404 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A
- 405 consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial
- 406 review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by
- 407 the Board in future disciplinary proceedings;
- 408 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to
- 409 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
- 410 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
- 411 interest in obtaining the information requested if such information is not to be used for commercial or trade
- 412 purposes;
- 413 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
- 414 § 4.1-111;
- 415 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale
- 416 of alcoholic beverages;
- 417 25. *Grant, suspend, and revoke retail tobacco permits for the sale of retail tobacco products;*
- 418 26. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;
- 419 ~~26.~~ 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;
- 420 ~~27.~~ 28. Establish minimum food sale requirements for all retail licensees;
- 421 ~~28.~~ 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief
- 422 Executive Officer as the Board deems appropriate;
- 423 ~~29.~~ 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
- 424 activities undertaken to enforce the provisions of this subtitle;
- 425 ~~30.~~ 31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
- 426 applications for such permits;
- 427 ~~31.~~ 32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of
- 428 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state

429 license fee; and

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

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

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

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

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

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

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

457 A. ~~Manufacturers, bottlers or wholesalers.~~ — Every licensed manufacturer, bottler, or wholesaler shall
458 keep complete, accurate, and separate records in accordance with Board regulations of all alcoholic beverages
459 purchased, manufactured, bottled, sold, or shipped by him, and the applicable tax required by § 4.1-234 or
460 4.1-236, if any.

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

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

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

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

487 E. ~~Deliveries.~~ — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1
488 shall keep complete, accurate, and separate records for a period of at least two years in accordance with
489 Board regulations of all deliveries of wine and beer to persons in the Commonwealth. Such records shall
490 include (i) the types of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price

491 charged for such wine and beer, (iv) the name and date of birth of the person to whom the wine and beer are
492 delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit
493 such records on a monthly basis for any month during which the licensee or permittee makes a delivery for
494 which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to
495 subsection E of § 4.1-212.1.

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

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

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

518 **§ 4.1-229. Suspension or revocation of permits; grounds; notice and hearing; exception.**

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

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

524 *Article 4.*

525 *Permitting and Restrictions for Tobacco Retailers.*

526 **§ 4.1-241. Retail tobacco permits; privileges; liabilities.**

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

533 **§ 4.1-242. Separate retail tobacco permit for each place of business; transfer or amendment; posting;**
534 **expiration; carriers; civil penalties.**

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

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

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

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

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

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

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

554 **§ 4.1-243. Applications for retail tobacco permits; fees.**

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

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

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

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

580 **§ 4.1-244. Fees on retail tobacco products and permits.**

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

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

590 **§ 4.1-245. Conditions under which Board may refuse to grant retail tobacco permits.**

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

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

597 a. *Is not 21 years of age or older;*

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

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

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

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

606 f. *Has not demonstrated financial responsibility sufficient to meet the requirements of the business*
 607 *proposed to be permitted;*

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

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

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

615 authority by making or maintaining business records required by statute or regulation that are false and
616 fraudulent;

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

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

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

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

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

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

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

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

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

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

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

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

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

648 6. Investigators with the Office of the Attorney General seized cigarette inventory, as authorized by
649 § 2.2-509.1, from the applicant during the prior year.

650 **§ 4.1-246. Conditions under which Board shall refuse to grant retail tobacco permits.**

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

653 **§ 4.1-247. Notice and hearings for refusal to grant retail tobacco permits; Administrative Process Act;**
654 **exceptions.**

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

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

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

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

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

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

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

676 **§ 4.1-248. Grounds for which Board may suspend or revoke retail tobacco permits.**

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

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

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

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

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

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

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

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

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

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

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

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

713 *k. Has failed to take reasonable measures to prevent (i) the permitted premises, (ii) any premises*
 714 *immediately adjacent to the permitted premises that are owned or leased by the retail tobacco permittee, or*
 715 *(iii) any portion of public property immediately adjacent to the permitted premises from becoming a place*
 716 *where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et*
 717 *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*
 718 *(§ 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*
 719 *(§ 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*
 720 *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*
 721 *9 of Title 18.2, and such violations lead to arrests that are so frequent and serious as to reasonably be*
 722 *deemed a continuing threat to public safety; or*

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

727 *2. The place occupied by the retail tobacco permittee:*

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

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

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

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

738 *4. Any cause exists for which the Board would have been entitled to refuse to grant such retail tobacco*

739 permit had the facts been known.

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

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

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

751 8. Any other cause authorized by this article.

752 **§ 4.1-249. Grounds for which Board shall suspend or revoke retail tobacco permits.**

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

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

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

763 **§ 4.1-250. Suspension or revocation of retail tobacco permits; notice and hearings; imposition of**
764 **penalties.**

765 A. 1. Except for temporary retail tobacco permits issued pursuant to § 4.1-252, before the Board may
766 impose a civil penalty or suspend or revoke any retail tobacco permit, reasonable notice of such proposed or
767 contemplated action shall be given to the retail tobacco permittee in accordance with the provisions of
768 § 2.2-4020.

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

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

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

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

801 immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or
 802 both. The Board may also impose a requirement that the retail tobacco permittee pay for the cost incurred by
 803 the Board, not to exceed \$25,000, in investigating the retail tobacco permittee and in holding the proceeding
 804 resulting in the violation in addition to any suspension or civil penalty incurred.

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

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

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

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

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

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

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

827 **§ 4.1-251. Suspension or revocation; disposition of retail tobacco products on hand; termination.**

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

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

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

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

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

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

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

849 **§ 4.1-252. Continuation of retail tobacco permittee operations in certain instances; temporary retail**
 850 **tobacco permits.**

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

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

859 2. Any person who, through contract, lease, concession, license, management or similar agreement
 860 (collectively, the contract), becomes lawfully entitled to the use and control of the premises of a retail
 861 tobacco permittee to continue to operate the retail tobacco establishment to the same extent as a retail
 862 tobacco permittee, provided such person has made application to the Board for a retail tobacco permit at the

863 same premises. The temporary retail tobacco permit shall (i) confer the privileges of any retail tobacco
 864 permits held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120
 865 days or for such longer period as may be necessary as determined by the Board pending the completion of
 866 the processing of the temporary retail tobacco permittee's retail tobacco permit application. No temporary
 867 retail tobacco permit shall be issued without the written consent of the previous retail tobacco permittee. No
 868 temporary retail tobacco permit shall be issued under the provisions of this subdivision if the previous retail
 869 tobacco permittee owes any state or local taxes, or has any pending charges for violation of this article or
 870 any Board regulation, unless the temporary retail tobacco permittee agrees to assume the liability of the
 871 previous retail tobacco permittee for the taxes or any penalty for the pending charges. An application for a
 872 temporary retail tobacco permit may be filed prior to the effective date of the contract, in which case the
 873 temporary retail tobacco permit, when issued, shall become effective on the effective date of the contract.
 874 Upon the effective date of the temporary retail tobacco permit, (a) the temporary retail tobacco permittee
 875 shall be responsible for compliance with the provisions of this article and any Board regulation and (b) the
 876 previous retail tobacco permittee shall not be held liable for any violation of this article or any Board
 877 regulation committed by, or any errors or omissions of, the temporary retail tobacco permittee.

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

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

889 **§ 4.1-253. Records of certain retail tobacco permittees; audits, inspections, and investigations;**
 890 **penalties.**

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

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

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

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

912 **§ 4.1-254. Retail Tobacco Enforcement Fund.**

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

Article 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. A violation of subsection A or B by an individual is punishable by a civil penalty in the amount of \$1,000 for a first violation, a civil penalty in the amount of \$5,000 for a second violation within a three-year period, or a civil penalty in the amount of \$10,000 for a third or subsequent violation within a three-year

987 *period. Such civil penalty shall not preclude the Board from taking administrative action against a retail*
 988 *tobacco permittee for the conduct of his agent or employee who violates subsection A or B. If applicable,*
 989 *upon a second or subsequent violation within a three-year period, the Board may suspend or revoke any*
 990 *retail tobacco permit issued pursuant to this subtitle.*

991 **§ 4.1-360. Prohibiting possession of retail tobacco products by a person younger than 21 years of age;**
 992 **seizure.**

993 *A. No person younger than 21 years of age shall possess any retail tobacco product. The provisions of this*
 994 *section shall not apply to the possession of retail tobacco products by a person younger than 21 years of age*
 995 *(i) making a delivery of retail tobacco products in pursuance of his employment or (ii) as part of a scientific*
 996 *study being conducted by an organization for the purpose of medical research to further efforts in cigarette*
 997 *and tobacco use prevention and cessation and tobacco product regulation, provided that such medical*
 998 *research has been approved by an institutional review board pursuant to applicable federal regulations or by*
 999 *a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection*
 1000 *shall not apply to the possession of any retail tobacco product by a law-enforcement officer or his agent*
 1001 *when the same is necessary in the performance of his duties.*

1002 *B. Any retail tobacco product possessed in violation of this section shall be deemed contraband and may*
 1003 *be seized by a law-enforcement officer. Any such retail tobacco product, the lawful possession of which is not*
 1004 *established, seized by such officer shall be forfeited and disposed of according to the process described in*
 1005 *subdivision A 2 of § 19.2-386.23.*

1006 *C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this*
 1007 *section.*

1008 *D. The provisions of this section shall not preclude prosecution under any other statute.*

1009 **§ 4.1-361. Purchasing retail tobacco products for person to whom they may not be sold; penalty;**
 1010 **forfeiture.**

1011 *A. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail*
 1012 *tobacco products to another person, when he knows or has reason to know that such person is younger than*
 1013 *21 years of age, except (i) where possession of the retail tobacco products by a person younger than 21 years*
 1014 *of age is due to such person's making a delivery of retail tobacco products in pursuance of his employment or*
 1015 *(ii) as part of a scientific study being conducted by an organization for the purpose of medical research to*
 1016 *further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation,*
 1017 *provided that such medical research has been approved by an institutional review board pursuant to*
 1018 *applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et*
 1019 *seq.) of Title 32.1. This subsection shall not apply to the possession of any retail tobacco product by a law-*
 1020 *enforcement officer or his agent when the same is necessary in the performance of his duties.*

1021 *B. A violation of subsection A by an individual is punishable by a civil penalty in the amount of \$100.*
 1022 *Such civil penalty shall not preclude the Board from taking administrative action against a retail tobacco*
 1023 *permittee for the conduct of his agent or employee who violates subsection A.*

1024 *C. Any retail tobacco products purchased or possessed in violation of this section shall be deemed*
 1025 *contraband and may be seized by a law-enforcement officer. Any such retail tobacco product, the lawful*
 1026 *possession of which is not established, seized by such officer shall be forfeited and disposed of according to*
 1027 *the process described in § 19.2-386.37*

1028 **§ 15.2-912.4. Regulation of retail tobacco, nicotine, and hemp product retail sale locations.**

1029 *Any locality may, by ordinance, regulate ~~the a retail sale locations of retail tobacco establishment, as such~~*
 1030 *term is defined in § 4.1-100, a retail sale location of tobacco products, as such term is defined in § ~~18.2-371.2~~*
 1031 *58.1-1021.01, or a retail sale location of hemp products intended for smoking, as such term is defined in*
 1032 *§ 3.2-4112, ~~for any such retail sale location~~ and may prohibit a retail sale such establishment or location on*
 1033 *property within 1,000 linear feet of a child day center as defined in § 22.1-289.02 or a public, private, or*
 1034 *parochial school. An ordinance adopted pursuant to this section shall not affect (i) a licensee holding a valid*
 1035 *license under § 4.1-206.3 or (ii) any retail sale location of ~~retail~~ tobacco products ~~or~~, hemp products intended*
 1036 *for smoking, or retail tobacco establishments operating before July 1, 2024.*

1037 **§ 18.2-246.8. Age verification requirements.**

1038 *A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless*
 1039 *prior to the first delivery sale to a consumer such person:*

1040 *1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the*
 1041 *consumer is at least the legal minimum purchase age and (ii) a statement signed by the prospective consumer*
 1042 *in writing that certifies the prospective consumer's address and that the consumer is at least 21 years of age.*
 1043 *Such statement shall also confirm (a) that the prospective consumer understands that signing another person's*
 1044 *name to such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum*
 1045 *purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum*
 1046 *purchase age is illegal under the laws of the Commonwealth;*

1047 *2. Makes a good faith effort to verify the information contained in the certification provided by the*
 1048 *prospective consumer pursuant to subdivision 1 against a commercially available database of valid,*

1049 government-issued identification that contains the date of birth or age of the individual placing the order, or
 1050 obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or
 1051 age of the individual placing the order;

1052 3. Provides to the prospective consumer, via email or other means, a notice that meets the requirements of
 1053 § 18.2-246.9; and

1054 4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has
 1055 been issued in such consumer's name or by a check drawn on the consumer's account.

1056 B. 1. ~~Except as provided in § 58.1-1021.06, if~~ If a purchase order for a liquid nicotine or nicotine vapor
 1057 product, as defined in § 58.1-1021.01, is made via the ~~Internet internet~~, no person shall make a delivery for
 1058 such order unless the delivery is to a retail dealer, as defined in § 58.1-1021.01.

1059 2. Persons accepting purchase orders made via the ~~Internet internet~~ for delivery sales may request that
 1060 prospective consumers provide their email addresses.

1061 **§ 18.2-371.2. Prohibiting sale or distribution, etc. of tobacco and hemp products intended for**
 1062 **smoking by persons under 21 years of age; civil penalties.**

1063 A. *As used in this section:*

1064 "Cigarette" means the same as that term is defined in § 58.1-1000.

1065 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in
 1066 § 3.2-4112.

1067 "Tobacco product" means the same as that term is defined in § 58.1-1021.01.

1068 B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person
 1069 younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years
 1070 of age, any ~~retail~~ tobacco product or hemp product intended for smoking.

1071 No person shall sell ~~retail~~ tobacco products or hemp products intended for smoking from a vending
 1072 machine.

1073 ~~B.~~ C. No person shall sell a ~~retail~~ tobacco product or hemp product intended for smoking to any individual
 1074 who does not demonstrate, by producing a driver's license or similar photo identification issued by a
 1075 government agency, that the individual is at least 21 years of age.

1076 ~~Before a retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as~~
 1077 ~~defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the~~
 1078 ~~retail tobacco products shall verify that the consumer is of legal age by examining from any person who~~
 1079 ~~appears to be under 30 years of age a government-issued photographic identification that establishes that the~~
 1080 ~~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~~
 1081 ~~§ 59.1-293.12, verifying the identification presented using identification fraud detection software,~~
 1082 ~~technology, or a scanner that confirms the authenticity of such identification.~~

1083 This subsection shall not apply to mail order or ~~Internet internet~~ sales, provided that the person offering
 1084 the ~~retail~~ tobacco product or hemp product intended for smoking for sale through mail order or the ~~Internet~~
 1085 ~~internet~~ (i) prior to the sale of the ~~retail~~ tobacco product or hemp product intended for smoking verifies that
 1086 the purchaser is at least 21 years of age through a commercially available database that is regularly used by
 1087 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of
 1088 mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the ~~retail~~
 1089 tobacco product or hemp product intended for smoking will be released to the purchaser.

1090 ~~C.~~ D. A violation of subsection ~~A B~~ or ~~B C~~ by an individual or by a separate retail establishment is
 1091 punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of
 1092 \$2,500 for a second or subsequent violation within a three-year period. ~~If applicable, upon a second or~~
 1093 ~~subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any~~
 1094 ~~approved license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04:1.~~

1095 For any violation of this section by an employee of a retail establishment, (i) such penalty shall be
 1096 assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the
 1097 employee.

1098 Any attorney for the Commonwealth of the ~~county or city~~ *locality* in which an alleged violation occurred
 1099 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any
 1100 law-enforcement officer may issue a summons for a violation of subsection ~~A B~~ or ~~B C~~.

1101 ~~D.~~ E. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages
 1102 provided by the manufacturer, with the required health warning. The proprietor of every retail establishment
 1103 that offers for sale any ~~retail~~ tobacco product or hemp product intended for smoking shall post in a
 1104 conspicuous manner and place a sign or signs indicating that the sale of ~~retail~~ tobacco products or hemp
 1105 products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the
 1106 ~~county, city, or town~~ *locality* in which an alleged violation of this subsection occurred may enforce this
 1107 subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into
 1108 the local treasury. No filing fee or other fee or cost shall be charged to the ~~county, city, or town~~ *locality*
 1109 which instituted the action.

1110 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services

1111 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
 1112 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
 1113 such regulations.

1114 3. Any attorney for the ~~county, city, or town~~ *locality* in which an alleged violation of this subsection
 1115 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil
 1116 penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the ~~county,~~
 1117 ~~city, or town~~ *locality* which instituted the action.

1118 E. F. Nothing in this section shall be construed to create a private cause of action.

1119 F. G. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
 1120 issue a summons for any violation of this section. ~~Additionally, any retailer selling retail tobacco products~~
 1121 ~~shall be subject to the enforcement, and compliance provisions of Chapter 23.2 (§ 59.1-293.10 et seq.) of~~
 1122 ~~Title 59.1.~~

1123 G. As used in this section:

1124 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized
 1125 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
 1126 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or
 1127 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of
 1128 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any
 1129 (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic
 1130 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
 1131 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination
 1132 products are authorized for sale by the U.S. Food and Drug Administration.

1133 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in
 1134 § 3.2-4112.

1135 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
 1136 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
 1137 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
 1138 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device
 1139 and any substances that may be aerosolized or vaporized by such device, whether or not the substance
 1140 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),
 1141 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling
 1142 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that
 1143 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms
 1144 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such
 1145 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

1146 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for
 1147 smoking in a manner similar to a cigarette or cigar.

1148 **§ 18.2-371.2:1. Prohibiting possession of hemp products intended for smoking by a person younger**
 1149 **than 21 years of age; seizure.**

1150 A. No person younger than 21 years of age shall possess any ~~retail~~ tobacco product or hemp product
 1151 intended for smoking, as ~~those terms are~~ *that term is* defined in § 18.2-371.2 3.2-4112. The provisions of this
 1152 section shall not be applicable to the possession of ~~retail~~ tobacco products or hemp products intended for
 1153 smoking by a person younger than 21 years of age (i) making a delivery of ~~retail~~ tobacco products or hemp
 1154 products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being
 1155 conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco
 1156 use prevention and cessation and tobacco product regulation, provided that such medical research has been
 1157 approved by an institutional review board pursuant to applicable federal regulations or by a research review
 1158 committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the
 1159 possession of any ~~retail~~ tobacco product or hemp product intended for smoking by a law-enforcement officer
 1160 or his agent when the same is necessary in the performance of his duties.

1161 B. Any ~~retail~~ tobacco product or hemp product intended for smoking, as ~~those terms are~~ *that term is*
 1162 defined in § 18.2-371.2 3.2-4112, possessed in violation of this section shall be deemed contraband and may
 1163 be seized by a law-enforcement officer. Any such product, the lawful possession of which is not established,
 1164 seized by such officer shall be forfeited and disposed of according to the process described in subdivision A 2
 1165 of § 19.2-386.23.

1166 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this
 1167 section.

1168 D. The provisions of this section shall not preclude prosecution under any other statute.

1169 **§ 18.2-391. Unlawful acts; penalties.**

1170 A. It ~~shall be~~ *is* unlawful for any person to sell, rent, or loan to a juvenile, knowing or having reason to
 1171 know that such person is a juvenile, or to knowingly display for commercial purpose in a manner whereby
 1172 juveniles may examine and peruse:

1173 1. Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or
 1174 computer game, electronic file or message containing an image, or similar visual representation or image of a
 1175 person or portion of the human body ~~which that~~ depicts sexually explicit nudity, sexual conduct, or
 1176 sadomasochistic abuse and ~~which that~~ is harmful to juveniles, or

1177 2. Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message
 1178 containing words, or sound recording ~~which that~~ contains any matter enumerated in subdivision 1 of ~~this~~
 1179 ~~subsection~~, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual
 1180 conduct, or sadomasochistic abuse and ~~which that~~, taken as a whole, is harmful to juveniles.

1181 However, if a person uses services of an ~~Internet~~ internet service provider or an electronic mail service
 1182 provider in committing acts prohibited under this subsection, such ~~Internet~~ internet service provider or
 1183 electronic mail service provider shall not be held responsible for violating this subsection.

1184 B. It ~~shall be~~ is unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or
 1185 knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show, or other
 1186 presentation ~~which that~~, in whole or in part, depicts sexually explicit nudity, sexual conduct, or
 1187 sadomasochistic abuse and ~~which that~~ is harmful to juveniles or to exhibit any such motion picture at any
 1188 such premises ~~which that~~ are not designed to prevent viewing from any public way of such motion picture by
 1189 juveniles not admitted to any such premises.

1190 C. It ~~shall be~~ is unlawful for any juvenile falsely to represent to any person mentioned in subsection A or
 1191 ~~subsection B hereof~~, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure
 1192 any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion
 1193 picture, show, or other presentation, as set forth in subsection B.

1194 D. It ~~shall be~~ is unlawful for any person knowingly to make a false representation to any person
 1195 mentioned in subsection A or ~~subsection B hereof~~ or to his agent, that he is the parent or guardian of any
 1196 juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection
 1197 A, or with the intent to procure such juvenile's admission to any motion picture, show, or other presentation,
 1198 as set forth in subsection B.

1199 E. No person shall sell, rent, or loan any item described in subdivision A 1 or A 2 to any individual who
 1200 does not demonstrate his age in accordance with the provisions of subsection ~~B~~ C of § 18.2-371.2.

1201 F. A violation of subsection A, B, C, or D is a Class 1 misdemeanor. A person or separate retail
 1202 establishment who violates subsection E shall be liable for a civil penalty not to exceed \$100 for a first
 1203 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for
 1204 a third or subsequent violation.

1205 **§ 19.2-386.21. Forfeiture of counterfeit and contraband cigarettes.**

1206 Counterfeit cigarettes possessed in violation of § 18.2-246.14 and cigarettes possessed in violation of
 1207 § 58.1-1017 or 58.1-1017.1 shall be subject to seizure, forfeiture, and destruction or court-ordered assignment
 1208 for use by a law-enforcement undercover operation by the Virginia Alcoholic Beverage Control Authority or
 1209 any law-enforcement officer of the Commonwealth. *Counterfeit and contraband cigarettes shall also be*
 1210 *subject to seizure, forfeiture, and destruction or court-ordered assignment for use by investigators with the*
 1211 *Office of the Attorney General, acting under authority of this section or § 2.2-509.1.* However, any
 1212 undercover operation that makes use of counterfeit cigarettes shall ensure that the counterfeit cigarettes
 1213 remain under the control and command of law enforcement and shall not be distributed to a member of the
 1214 general public who is not the subject of a criminal investigation. All fixtures, equipment, materials, and
 1215 personal property used in substantial connection with (i) the sale or possession of counterfeit cigarettes in a
 1216 knowing and intentional violation of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2 or (ii) the sale
 1217 or possession of cigarettes in a knowing and intentional violation of § 58.1-1017 or 58.1-1017.1 shall be
 1218 subject to seizure and forfeiture according to the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.),
 1219 applied mutatis mutandis.

1220 **§ 19.2-386.37. Seizure of contraband liquid nicotine or nicotine vapor product.**

1221 *Any liquid nicotine or nicotine vapor product not included in the directory established pursuant to*
 1222 *§ 59.1-293.15 that is sold, offered for sale, or possessed for sale in the Commonwealth or imported for*
 1223 *personal consumption in the Commonwealth shall be subject to seizure, forfeiture, and destruction by the*
 1224 *Attorney General, the attorney for the Commonwealth or the locality, or a law-enforcement officer. Any such*
 1225 *liquid nicotine or nicotine vapor product shall be deemed contraband, may not be sold or offered for sale,*
 1226 *and shall be subject to confiscation and forfeiture.*

1227 **§ 58.1-1021.04:1. Distributor's or remote retail seller's license; penalties.**

1228 A. 1. No person shall engage in the business of selling or dealing in tobacco products as a distributor in
 1229 the Commonwealth without first having received a separate license from the Department for each location or
 1230 place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed
 1231 by the Department. Every application for such license shall be made on a form prescribed by the Department
 1232 and the following information shall be provided on the application:

1233 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1234 and address of each of its members shall be provided. If the applicant is a corporation, the name and address

1235 of each of its principal officers shall be provided;

1236 b. The address of the applicant's principal place of business;

1237 c. The place or places where the business to be licensed is to be conducted; and

1238 d. Such other information as the Department may require for the purpose of the administration of this
1239 article.

1240 2. A person outside the Commonwealth who ships or transports tobacco products to retailers in the
1241 Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted
1242 such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license
1243 is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless
1244 such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601 et seq.), 10 (§ 13.1-801 et seq.),
1245 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
1246 (§ 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of the State Corporation
1247 Commission as the person's agent for the purpose of service of process relating to any matter or issue
1248 involving the person and arising under the provisions of this article.

1249 The Department shall conduct a background investigation, to include a Virginia criminal history records
1250 search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged
1251 in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of
1252 Investigation if the Department deems a national criminal records search necessary, on applicants for
1253 licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may
1254 suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation,
1255 limited liability company, or business trust if it determines that the principals, managers, and other persons
1256 engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of
1257 any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny,
1258 embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted
1259 of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
1260 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application
1261 for a distributor's license to the Department, is guilty of a Class 1 misdemeanor. The Department may
1262 establish an application or renewal fee not to exceed \$750 to be retained by the Department to be applied to
1263 the administrative and other costs of processing distributor's license applications, conducting background
1264 investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of
1265 such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into
1266 the state treasury.

1267 3. No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco
1268 to consumers in the Commonwealth without (i) completing an application for and being granted a license as a
1269 remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for
1270 a dealer's certificate under § 58.1-613; (iii) if economic nexus thresholds are met, collecting and remitting the
1271 excise tax pursuant to subsection A of § 58.1-1021.02; (iv) providing for age verification through an
1272 independent, third-party age verification service that compares information available from a commercially
1273 available database, or aggregate of databases, that is regularly used by government agencies and businesses
1274 for the purpose of age and identity verification to the personal information entered by the individual during
1275 the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are
1276 met and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the
1277 remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail
1278 sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to
1279 a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

1280 B. Upon receipt of an application in proper form and payment of the required license fee, the Department
1281 shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the
1282 licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a
1283 copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be
1284 transferable to any other person. Distributor's licenses issued pursuant to this section shall be valid for a
1285 period of three years from the date of issue unless revoked by the Department in the manner provided herein.
1286 The Department may at any time revoke the license issued to any distributor who is found guilty of violating
1287 or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and
1288 promulgated under authority of this chapter. The Department shall suspend or revoke the license issued to
1289 any distributor who is found guilty of a second or subsequent violation of subsection A ~~or B or C~~ of
1290 § 18.2-371.2.

1291 C. ~~No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor~~
1292 ~~products or shipping or transporting liquid nicotine or nicotine vapor products to retailers in the~~
1293 ~~Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the~~
1294 ~~Commonwealth without first having received a separate license from the Department for each location or~~
1295 ~~place of business, and any person who violates such prohibition shall be subject to a penalty of \$400 in~~
1296 ~~addition to any other applicable taxes or fees. Each application for a manufacturer's, distributor's, or retail~~

1297 dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by
 1298 the Department. Any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for
 1299 Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued
 1300 by the Department shall not be required to obtain a license under this subsection. Every application for such
 1301 liquid nicotine and nicotine vapor products license shall be made on a form prescribed by the Department and
 1302 the following information shall be provided on the application:

1303 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1304 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
 1305 of each of its principal officers shall be provided;

1306 b. The address of the applicant's principal place of business;

1307 c. The place or places where the business to be licensed is to be conducted; and

1308 d. Such other information as the Department may require for the purpose of the administration of this
 1309 article.

1310 2. The Department shall conduct a background investigation, to include a Virginia criminal history
 1311 records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine
 1312 vapor products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the
 1313 Department deems a national criminal records search necessary, on applicants for licensure as a liquid
 1314 nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may
 1315 refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person,
 1316 partnership, corporation, limited liability company, or business trust if it determines that the principals and
 1317 managers at the licensable location of the applicant have been (i) found guilty of any fraud or
 1318 misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,
 1319 fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a
 1320 felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a
 1321 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in
 1322 any application for a license to the Department is guilty of a Class 1 misdemeanor. The Department may
 1323 establish an application or renewal fee to be retained by the Department to be applied to the administrative
 1324 and other costs of processing license applications, conducting background investigations, and issuing
 1325 licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-
 1326 numbered years shall be reported to the State Treasurer and deposited into the state treasury.

1327 3. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1328 shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor
 1329 products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail
 1330 dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently
 1331 displayed on the premises covered by the license. No license shall be transferable to any other person,
 1332 partnership, corporation, limited liability company, or business trust; however, the Department may grant a
 1333 temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail
 1334 dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses,
 1335 other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of
 1336 issue unless revoked by the Department in the manner provided in this section. The Department may at any
 1337 time suspend or revoke the approved license, permit, or registration issued in accordance with this subsection
 1338 to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or
 1339 any of the rules of the Department adopted and promulgated under authority of this chapter. Any person
 1340 authorized to sell liquid nicotine or nicotine vapor products pursuant to this subsection shall, as a condition of
 1341 renewing or extending an approved license, permit, or registration, be required to submit to the Department
 1342 an accurate record of any taxes paid on liquid nicotine pursuant to § 58.1-1021.02.

1343 4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not
 1344 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid
 1345 nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found
 1346 guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

1347 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;

1348 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension
 1349 of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i)
 1350 of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30
 1351 years of age is of legal age by verifying such consumer's government-issued photographic identification using
 1352 fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

1353 c. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the liquid
 1354 nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor
 1355 products license for a period of three years from the date of the most recent violation.

1356 5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine
 1357 vapor products without verifying that the consumer is of legal age by examining from any person who
 1358 appears to be under 30 years of age a government-issued photographic identification that establishes that the

1359 person is of legal age or providing for age verification through an independent age verification service that
 1360 compares information available from a commercially available database, or aggregate of databases, that is
 1361 regularly used by government agencies and businesses for the purpose of age and identity verification to the
 1362 personal information entered by the individual during the ordering process that establishes that the individual
 1363 is of age.

1364 6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor
 1365 products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales
 1366 receipt involved that shall include itemized lists of the types of products included in such transaction, the tax
 1367 due on each product pursuant to subsection B of § 58.1-1021.02, and the total amount of taxes paid. Such
 1368 records shall be produced and provided to the Department as necessary for auditing, compliance, and
 1369 enforcement purposes.

1370 D. C. The Department shall compile and maintain a current list of licensed distributors and remote retail
 1371 sellers of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and
 1372 nicotine vapor products. The list shall be updated on a monthly basis and published on the Department's
 1373 website, available to any interested party.

1374 **§ 59.1-200. Prohibited practices.**

1375 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
 1376 transaction are hereby declared unlawful:

- 1377 1. Misrepresenting goods or services as those of another;
- 1378 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 1379 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
 1380 with another;
- 1381 4. Misrepresenting geographic origin in connection with goods or services;
- 1382 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
 1383 benefits;
- 1384 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 1385 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
 1386 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
 1387 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
 1388 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
 1389 "not first class";
- 1390 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
 1391 price or upon the terms advertised.

1392 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
 1393 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
 1394 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
 1395 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
 1396 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
 1397 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
 1398 reasonably expected to have at least such quantity or amount for sale;

1399 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
 1400 price reductions;

1401 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
 1402 installed;

1403 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
 1404 for merchandise or services previously ordered;

1405 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
 1406 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
 1407 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
 1408 goods or services advertised or offered for sale;

1409 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
 1410 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
 1411 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
 1412 statutes or regulations;

1413 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
 1414 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
 1415 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
 1416 provide, use, or include the statement, disclosure, notice, or other information in connection with the
 1417 consumer transaction;

1418 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
 1419 with a consumer transaction;

1420 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,

1421 or 3.2-6519 is a violation of this chapter;

1422 16. Failing to disclose all conditions, charges, or fees relating to:

1423 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
 1424 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
 1425 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
 1426 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
 1427 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
 1428 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
 1429 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
 1430 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
 1431 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
 1432 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
 1433 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
 1434 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
 1435 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
 1436 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

1437 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
 1438 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
 1439 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
 1440 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

1441 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
 1442 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
 1443 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
 1444 overpayments. If the credit balance information is incorporated into statements of account furnished
 1445 consumers by suppliers within such 60-day period, no separate or additional notice is required;

1446 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
 1447 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

1448 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

1449 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

1450 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

1451 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
 1452 et seq.);

1453 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

1454 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
 1455 seq.);

1456 24. Violating any provision of § 54.1-1505;

1457 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
 1458 (§ 59.1-207.34 et seq.);

1459 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

1460 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

1461 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

1462 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

1463 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
 1464 seq.);

1465 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

1466 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

1467 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

1468 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

1469 35. Using the consumer's social security number as the consumer's account number with the supplier, if
 1470 the consumer has requested in writing that the supplier use an alternate number not associated with the
 1471 consumer's social security number;

1472 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

1473 37. Violating any provision of § 8.01-40.2;

1474 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

1475 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

1476 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

1477 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
 1478 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
 1479 § 59.1-526;

1480 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

1481 43. Violating any provision of § 59.1-443.2;

1482 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

- 1483 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 1484 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 1485 47. Violating any provision of § 18.2-239;
- 1486 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 1487 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 1488 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 1489 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 1490 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 1491 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 1492 products that are used, secondhand or "seconds";
- 1493 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 1494 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 1495 52. Violating any provision of § 8.2-317.1;
- 1496 53. Violating subsection A of § 9.1-149.1;
- 1497 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 1498 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 1499 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 1500 drywall has been permanently installed or affixed;
- 1501 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 1502 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 1503 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 1504 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 1505 seq.) of Title 54.1;
- 1506 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 1507 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 1508 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 1509 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 1510 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 1511 59. Violating any provision of subsection E of § 32.1-126;
- 1512 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 1513 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 1514 61. Violating any provision of § 2.2-2001.5;
- 1515 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 1516 63. Violating any provision of § 6.2-312;
- 1517 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 1518 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 1519 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 1520 67. Knowingly violating any provision of § 8.01-27.5;
- 1521 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 1522 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 1523 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 1524 obligation to pay for the goods or services;
- 1525 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 1526 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 1527 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 1528 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 1529 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 1530 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 1531 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1532 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
- 1533 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
- 1534 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 1535 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
- 1536 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 1537 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 1538 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
- 1539 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
- 1540 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
- 1541 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
- 1542 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
- 1543 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
- 1544 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to

1545 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
 1546 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
 1547 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
 1548 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1549 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 1550 16 (§ 4.1-1600 et seq.) of Title 4.1;

1551 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
 1552 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
 1553 that depicts or is in the shape of a human, animal, vehicle, or fruit;

1554 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 1555 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
 1556 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
 1557 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
 1558 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
 1559 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

1560 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
 1561 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
 1562 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1563 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 1564 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 1565 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

1566 75. Violating any provision of § 59.1-466.8;

1567 76. Violating subsection F of § 36-96.3:1;

1568 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
 1569 kratom product that does not include a label listing all ingredients and with the following guidance: "This
 1570 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
 1571 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
 1572 plant *Mitragyna speciosa* or any extract thereof;

1573 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
 1574 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
 1575 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
 1576 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
 1577 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
 1578 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
 1579 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
 1580 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
 1581 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
 1582 location;

1583 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
 1584 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
 1585 such good or provision of any such continuous service;

1586 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

1587 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
 1588 residential dwelling without holding a mold remediation certification from a nationally or internationally
 1589 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
 1590 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
 1591 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent
 1592 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
 1593 Commonwealth;

1594 82. Willfully violating any provision of § 59.1-444.4;

1595 83. Violating any provision of ~~Chapter 23-2 (§ 59.1-293.10 et seq.)~~ §§ 4.1-253, 4.1-356, 4.1-357, or
 1596 59.1-293.15 through 59.1-293.22;

1597 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
 1598 requirements of 21 C.F.R. Part 101;

1599 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual
 1600 health information without the consent of the consumer;

1601 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

1602 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
 1603 seq.).

1604 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
 1605 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
 1606 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation

1607 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

1608 **§ 59.1-293.10. Definitions.**

1609 As used in this chapter, unless the context requires another *a different* meaning:

1610 "Child-resistant packaging" means packaging that is designed or constructed to meet the child-resistant effectiveness standards set forth in 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the protocols described in 16 C.F.R. § 1700.20 as in effect on July 1, 2015.

1613 "Department" means the Department of Taxation.

1614 "Liquid nicotine" means the same as that term is defined in § ~~58.1-1021.01~~ 4.1-100.

1615 "Liquid nicotine container" means a bottle or other container holding liquid nicotine in any concentration but does not include a cartridge containing liquid nicotine if such cartridge is prefilled and sealed by the manufacturer of such cartridge and is not intended to be opened by the consumer.

1618 "Nicotine vapor product" means the same as that term is defined in § ~~58.1-1021.01~~ and includes liquid nicotine containers 4.1-100.

1620 "Retail dealer" means the same as that term is defined in § 58.1-1021.01.

1621 "*Retail tobacco establishment*" means the same as that term is defined in § 4.1-100.

1622 "*Retail tobacco permit*" means the same as that term is defined in § 4.1-100.

1623 "*Retail tobacco permittee*" means the same as that term is defined in § 4.1-100.

1624 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated tobacco product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii), whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and glass pipes. "Retail tobacco product" includes any nicotine vapor product. "Retail tobacco product" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration. "Retail tobacco product" does not include any cigar or pipe tobacco as defined in § ~~58.1-1021.01~~ the same as that term is defined in § 4.1-100.

1636 "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation that owns, operates, or manages any tobacco retail establishment. "Tobacco retailer" does not include nonmanagement employees of a tobacco retail establishment the same as that term is defined in § 4.1-100.

1640 "Tobacco retail establishment" means any place of business where retail tobacco products are available for sale to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience store, gasoline service station, bar, or restaurant where retail tobacco products are available for sale to the general public.

1644 **§ 59.1-293.13. Required education for retail dealers and employees.**

1645 Any retail dealer shall be required to attest that it has conducted education and training for its employees related to:

1647 1. The provisions of § ~~59.1-293.12~~ Article 4 (§ 4.1-355 et seq.) of Chapter 3 of Title 4.1;

1648 2. The prohibitions on the sale of retail tobacco products to persons under age 21 and other restrictions prescribed by §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2;

1650 3. Forms of identification that are acceptable as proof of age; and

1651 4. The legal penalties that may be incurred for violation of the provisions of law identified in subdivisions 1 and 2.

1653 **§ 59.1-293.15. Liquid nicotine and nicotine vapor product; directory.**

1654 The Attorney General shall establish and maintain a directory that lists all liquid nicotine or nicotine vapor product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate certification forms have been submitted in accordance with the provisions of § ~~59.1-293.13~~ 59.1-293.16. The Attorney General shall make the directory available for public inspection on its website. The Attorney General shall update the directory as necessary.

1659 **§ 59.1-293.16. Liquid nicotine and nicotine vapor product; certification; penalty.**

1660 A. By December 31, 2025, and annually thereafter, every Every manufacturer of liquid nicotine or nicotine vapor products that are sold for retail sale in the Commonwealth, whether directly or through a wholesaler, distributor, retailer, or similar intermediary, shall annually certify in a form and manner as prescribed by the Attorney General that the manufacturer agrees to comply with the provisions of this chapter and that:

1665 1. The manufacturer has received a marketing authorization or similar order for the liquid nicotine or nicotine vapor product from the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j; or

1666 2. The liquid nicotine or nicotine vapor product was marketed in the United States as of August 8, 2016, or the manufacturer submitted a premarket tobacco product application for the liquid nicotine or nicotine

1669 vapor product to the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j on or before
 1670 September 9, 2020, and the application either remains under review by the U.S. Food and Drug
 1671 Administration or a final decision on the application has not otherwise taken effect.

1672 B. A manufacturer of liquid nicotine or nicotine vapor products shall submit a certification *or*
 1673 *recertification* form for each liquid nicotine and nicotine vapor product that such manufacturer sells for retail
 1674 sale in the Commonwealth.

1675 C. Each certification *or recertification* form shall be accompanied by:

1676 ~~1. A~~ a copy of the marketing authorization or other order for each liquid nicotine or nicotine vapor
 1677 product issued by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j, or evidence that the
 1678 premarket tobacco product application for the liquid nicotine or nicotine vapor product was submitted to the
 1679 U.S. Food and Drug Administration and a final authorization or order has not yet taken effect; *and*:

1680 ~~2. A~~ 1. An initial certification fee of ~~\$2,000~~ \$5,000 for each liquid nicotine and nicotine vapor product; to
 1681 be remitted with the manufacturer's first certification submission that identifies any such product and with
 1682 any resubmission of a certification for any such product following any period of noncertified status; ~~and or~~

1683 ~~3. A~~ 2. An annual *recertification* fee of ~~\$500 to be submitted annually~~ \$2,500 for each liquid nicotine and
 1684 nicotine vapor product to be remitted with the manufacturer's annual *recertification* submission identifying
 1685 any ~~liquid nicotine or nicotine vapor~~ such product, where such *recertification* does not follow any period of
 1686 noncertified status.

1687 D. A manufacturer required to submit a certification pursuant to this section shall notify the Attorney
 1688 General within 30 days of any material change to the certification form, including the issuance or denial of a
 1689 marketing authorization or other order or action by the U.S. Food and Drug Administration pursuant to 21
 1690 U.S.C. § 387j, or any other order or action by the U.S. Food and Drug Administration that affects the ability
 1691 of the liquid nicotine or nicotine vapor product to be introduced or delivered into interstate commerce for
 1692 commercial distribution in the United States.

1693 E. Any manufacturer that falsely represents any of the information required by this section is guilty of a
 1694 Class 3 misdemeanor for each false representation. *Notwithstanding the provisions of § 2.2-511, the Attorney*
 1695 *General may institute or conduct a prosecution for a violation of this subsection.* Venue for prosecution of a
 1696 *such violation of this subsection* shall be proper in the Circuit Court for the City of Richmond.

1697 **§ 59.1-293.17. Removal or exclusion from directory.**

1698 A. The Attorney General shall, in accordance with the provisions of this section, remove or exclude from
 1699 the directory any liquid nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor
 1700 product that the Attorney General determines is not in compliance with the provisions of this chapter.

1701 B. If the Attorney General determines to remove or exclude from the directory a liquid nicotine or
 1702 nicotine vapor product manufacturer or a liquid nicotine or nicotine vapor product in the directory, the
 1703 Attorney General shall notify by electronic or other practicable means the manufacturer's registered agent in
 1704 the Commonwealth of such determination. The liquid nicotine or nicotine vapor product manufacturer shall
 1705 have 10 business days from receipt of such notice to establish that the liquid nicotine or nicotine vapor
 1706 product manufacturer or liquid nicotine or nicotine vapor product meets the requirements to be included in
 1707 the directory. If the liquid nicotine or nicotine vapor product manufacturer fails to establish compliance
 1708 within the 10-business-day period, the Attorney General shall remove or exclude from the directory the liquid
 1709 nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor product.

1710 C. Any determination by the Attorney General to remove or exclude from the directory a manufacturer or
 1711 a product shall be subject to review by the filing of a civil action for prospective declaratory or injunctive
 1712 relief in the Circuit Court for the City of Richmond.

1713 D. If a liquid nicotine or nicotine vapor product is removed from the directory:

1714 1. Each retailer, distributor, and wholesaler shall have 30 days to sell the product or remove such product
 1715 intended for retail sale in the Commonwealth from its inventory and return the product to the manufacturer
 1716 for disposal. After ~~24~~ 30 days following the removal from the directory, the liquid nicotine and nicotine vapor
 1717 products removed from the directory shall be subject to seizure, forfeiture, and destruction *by the Attorney*
 1718 *General, the attorney for the Commonwealth, or the attorney for the county, city, or town or by a law-*
 1719 *enforcement officer* and shall not be purchased or sold in the Commonwealth.

1720 2. Each manufacturer, wholesaler, or retail dealer selling the product intended for retail sale in the
 1721 Commonwealth shall notify each purchaser of the product that it has been removed from the directory at the
 1722 time of delivery of such product. Unless otherwise provided by contract or purchase agreement, the
 1723 manufacturer, wholesaler, or retail dealer shall provide the purchaser a refund of the purchase price of the
 1724 removed product. If a manufacturer, wholesaler, or retail dealer fails to provide such refund, the purchaser
 1725 may bring an action against the manufacturer, wholesaler, or retail dealer in a court of competent jurisdiction
 1726 to recover the purchase price and reasonable attorney fees and costs.

1727 **§ 59.1-293.18. Agent for service of process.**

1728 A. Any nonresident manufacturer of liquid nicotine or nicotine vapor products that has not registered to
 1729 do business in the Commonwealth as a foreign corporation or business entity shall, as a condition precedent
 1730 to being included in the directory established by the Attorney General pursuant to § ~~59.1-293.12~~ 59.1-293.15,

1731 appoint and continually engage without interruption the services of an agent in the Commonwealth to act as
 1732 agent for the service of process in any action or proceeding against such nonresident manufacturer concerning
 1733 or arising out of the enforcement of this chapter, and such nonresident manufacturer may be served in any
 1734 manner authorized by law. Such service shall constitute legal and valid service of process on the nonresident
 1735 manufacturer. The manufacturer shall provide the name, address, telephone number, and proof of the
 1736 appointment and availability of such agent to the Attorney General.

1737 B. The manufacturer shall provide notice to the Attorney General 30 calendar days prior to termination of
 1738 the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the
 1739 appointment of a new agent no less than five calendar days prior to the termination of an existing agent
 1740 appointment. In the event an agent terminates an agency appointment, the manufacturer shall notify the
 1741 Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the
 1742 Attorney General of the appointment of a new agent.

1743 C. Any manufacturer whose liquid nicotine or nicotine vapor products are sold in the Commonwealth who
 1744 has not appointed and engaged the services of an agent as required by this section shall be deemed to have
 1745 appointed the Secretary of the Commonwealth as its agent for service of process. The appointment of the
 1746 Secretary of the Commonwealth as agent shall not satisfy the condition precedent required in subsection A to
 1747 be included in the directory.

1748 **§ 59.1-293.20. Sale or distribution prohibited.**

1749 A. Beginning December 31, 2025, no person shall sell, distribute, or import for resale, or offer for sale a
 1750 liquid nicotine or nicotine vapor product for retail sale in the Commonwealth unless such liquid nicotine or
 1751 nicotine vapor product is included in the directory established by the Attorney General pursuant to §
 1752 ~~59.1-293.12~~ 59.1-293.15.

1753 B. Beginning December 31, 2025, no liquid nicotine or nicotine vapor product manufacturer shall sell for
 1754 retail sale, either directly or through a wholesaler, distributor, retailer, or similar intermediary or
 1755 intermediaries, a liquid nicotine or nicotine vapor product in the Commonwealth unless such liquid nicotine
 1756 or nicotine vapor product is included in the directory established by the Attorney General pursuant to §
 1757 ~~59.1-293.12~~ 59.1-293.15.

1758 C. Any person that violates the provisions of subsection A *or B* is subject to a fine of \$1,000 per day for
 1759 each product offered for sale in violation until the offending product is removed from the market or until the
 1760 offending product is properly listed on the directory.

1761 ~~D. A liquid nicotine or nicotine vapor product manufacturer that violates the provisions of subsection B is~~
 1762 ~~subject to a fine of \$1,000 per day for each product offered for sale in violation until the offending product is~~
 1763 ~~removed from the market or until the offending product is properly listed on the directory.~~

1764 ~~E. the following civil penalties:~~

1765 1. For the first violation, a penalty of no less than \$5,000 per liquid nicotine or nicotine vapor product
 1766 offered for sale;

1767 2. For a second violation, a penalty of no less than \$10,000 per liquid nicotine or nicotine vapor product
 1768 offered for sale; and

1769 3. For a third violation, a penalty of no less than \$15,000 per liquid nicotine or nicotine vapor product
 1770 offered for sale.

1771 D. Each retailer shall have 60 days from the date that the Attorney General first makes the directory
 1772 available for inspection on its public website to sell any products that were in its inventory and not included
 1773 in the directory or to remove from inventory and return such products to the manufacturer for disposal.

1774 ~~F. E. Each distributor or wholesaler shall have 60 days from the date that the Attorney General first makes~~
 1775 ~~the directory available for inspection on its public website to remove any products intended for sale in the~~
 1776 ~~Commonwealth from its inventory and return such products to the manufacturer for disposal.~~

1777 ~~G. F. Any liquid nicotine or nicotine vapor product sold or offered for sale in violation of this section~~
 1778 ~~shall be deemed contraband and may be seized by a law-enforcement officer. Any such product, the lawful~~
 1779 ~~possession of which is not established, seized by such officer shall be forfeited and destroyed or disposed of.~~
 1780 ~~The cost of such seizure, forfeiture, and destruction or disposal shall be borne by the person from whom the~~
 1781 ~~products are confiscated.~~

1782 G. In an action brought under this section, *the Attorney General*, the attorney for the Commonwealth, or
 1783 the attorney for the county, city, or town may recover reasonable costs of investigation, the costs of the
 1784 action, and attorney fees *in addition to any civil penalties*.

1785 H. Any civil penalties, costs, and attorney fees assessed under this section in an action brought ~~in the~~
 1786 ~~name of a locality by an attorney for the Commonwealth or an attorney for a county, city, or town~~ shall be
 1787 paid into the general fund of the locality.

1788 I. All civil penalties, costs, and attorney fees assessed under this section in an action brought by the
 1789 Attorney General and fees collected by the Attorney General pursuant to ~~this chapter~~ § 59.1-293.16 shall be
 1790 used for the administration and enforcement of this chapter.

1791 **§ 59.1-293.21. Enforcement; inspection; forfeiture.**

1792 A. Notwithstanding any other provisions of law to the contrary, *the Attorney General*, any attorney for the

1793 Commonwealth, or the attorney for any city, county, or town may cause an action to be brought in the
1794 appropriate circuit court in the name of the Commonwealth or of the county, city, or town to enjoin any
1795 violation of this chapter. The circuit court having jurisdiction may enjoin such violations notwithstanding the
1796 existence of an adequate remedy at law. In any action under this section, it shall not be necessary that
1797 damages be proved.

1798 B. The circuit courts are authorized to (i) issue temporary or permanent injunctions to restrain and prevent
1799 violations of this chapter and (ii) order forfeiture of any property seized for a violation of this chapter.

1800 C. Each violation of this chapter shall constitute a separate violation and shall be subject to any penalties
1801 imposed under this chapter.

1802 D. Any retailer or wholesaler that sells or distributes any liquid nicotine or nicotine vapor product in the
1803 Commonwealth shall be subject to scheduled or unscheduled compliance checks carried out by the Attorney
1804 General, or an agent thereof, for the purposes of enforcing the provisions of this chapter *and* § 4.1-253,
1805 4.1-356, or 4.1-357.

1806 E. *Any liquid nicotine or nicotine vapor product not included in the directory established pursuant to*
1807 *§ 59.1-293.15 that is sold, offered for sale, or possessed for sale in the Commonwealth, or imported for*
1808 *personal consumption in the Commonwealth shall be subject to seizure, forfeiture, and destruction by the*
1809 *Attorney General, the attorney for the Commonwealth or the locality, or a law-enforcement officer. Any such*
1810 *liquid nicotine or nicotine vapor product shall be deemed contraband, may not be sold or offered for sale,*
1811 *and shall be subject to confiscation and forfeiture. Any such confiscation and forfeiture shall be governed by*
1812 *the procedures contained in § 19.2-386.37. The cost of such seizure, forfeiture, and destruction or disposal*
1813 *shall be borne by the person from whom the products are confiscated.*

1814 F. *Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200*
1815 *and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act*
1816 *(§ 59.1-196 et seq.).*

1817 **2. That §§ 58.1-1021.06 through 58.1-1021.09, 59.1-293.11, 59.1-293.12, and 59.1-293.14 of the Code of**
1818 **Virginia are repealed.**

1819 **3. That for each retail tobacco permittee, the Board of Directors of the Virginia Alcoholic Beverage**
1820 **Control Authority (the Board) shall conduct an unannounced underage buyer operation at least once**
1821 **every 24 months to verify that the retail tobacco permittee is not selling retail tobacco products to**
1822 **persons under 21 years of age. If the Board determines that the retail tobacco permittee has violated**
1823 **the provisions of § 4.1-359 of the Code of Virginia, as created by this act, the Board shall conduct an**
1824 **additional underage buyer operation of the retail tobacco permittee within six months of a Board order**
1825 **substantiating such violation.**

1826 **4. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall**
1827 **provide an annual report, beginning December 1, 2026, to the General Assembly on the efficacy of an**
1828 **unannounced underage buyer operation to verify that each retail tobacco licensee is not selling retail**
1829 **tobacco products to persons younger than 21 years of age.**

1830 **5. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall enter into a**
1831 **memorandum of understanding with the Office of the Attorney General (the Office) no later than July**
1832 **1, 2026, that includes provisions for the Authority and the Office to (i) coordinate in the**
1833 **implementation of the provisions of this act; (ii) cooperate in the mutual regulation of retail tobacco**
1834 **products, as such term is defined in § 4.1-100 of the Code of Virginia, as amended by this act; and (iii)**
1835 **jointly fund such implementation and regulation from any revenues generated by retail tobacco**
1836 **licenses issued and penalties imposed under the provisions of this act.**

1837 **6. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall**
1838 **promulgate regulations to implement the provisions of this act by December 1, 2026. With the**
1839 **exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process**
1840 **Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant**
1841 **thereto shall apply to the adoption of any regulation pursuant to this act. Prior to adopting any**
1842 **regulation pursuant to this act, the Board shall publish a notice of opportunity to comment in the**
1843 **Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice**
1844 **of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the**
1845 **proposed regulation; and (iii) the name, address, and telephone number of the agency contact person**
1846 **responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the**
1847 **last date prescribed in such notice for submittals of public comment.**

1848 **7. That the provisions of the first, second, and third enactments of this act shall become effective on**
1849 **October 1, 2026.**