

VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1021

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.

[S 620]

Approved April 22, 2026

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:

§ 4.1-100. Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but ~~shall~~ *does not* include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

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

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

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Retail tobacco establishment" means any place of business owned by a retail tobacco permittee or tobacco retailer to sell retail tobacco products 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. "Retail tobacco establishment" includes any facility from which cigarette delivery sales, as that term is defined in § 18.2-246.6, are made. "Retail tobacco establishment" does not include an establishment that does not sell retail tobacco products other than cigars and pipe tobacco as those terms are defined in § 58.1-1021.01.

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

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

"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, 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 blunt or hemp wraps, and glass pipes. "Retail tobacco product" includes any liquid nicotine or 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.

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

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

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

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

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

"Sports facility" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as

defined in § 58.1-4030, or similar events, the types of which are approved by the Authority, are conducted.

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

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

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

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

§ 4.1-103. General powers of Board.

The Board shall have the power to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

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

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

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

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

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

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

Article 4.

Permitting and Restrictions for Tobacco Retailers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Is not 21 years of age or older;

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

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

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

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

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

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

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

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

fraudulent;

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

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

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

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

2. The place to be occupied by the applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. *Any other cause authorized by this article.*

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

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

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

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

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

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

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

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

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

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

both. The Board may also impose a requirement that the retail tobacco permittee pay for the cost incurred by the Board, not to exceed \$25,000, in investigating the retail tobacco permittee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-254. Retail Tobacco Enforcement Fund.

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

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 period. Such civil penalty shall not preclude the Board from taking administrative action against a retail

tobacco permittee for the conduct of his agent or employee who violates subsection A or B. If applicable, upon a second or subsequent violation within a three-year period, the Board may suspend or revoke any retail tobacco permit issued pursuant to this subtitle.

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

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

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

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

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

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

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

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

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

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

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

§ 18.2-246.8. Age verification requirements.

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

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

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

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

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

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

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

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

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

A. As used in this section:

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

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

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

B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by 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 product or hemp product intended for smoking.

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

~~B. C.~~ *C. No person shall sell a ~~retail~~ tobacco product or hemp product intended for smoking 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.*

~~Before a ~~retail dealer~~ 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, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of § 59.1-293.12, verifying the identification presented using identification fraud detection software, technology, or a scanner that confirms the authenticity of such identification.~~

This subsection shall not apply to mail order or ~~Internet~~ *internet* sales, provided that the person offering the ~~retail~~ tobacco product or hemp product intended for smoking for sale through mail order or the ~~Internet~~ *internet* (i) prior to the sale of the ~~retail~~ tobacco product or hemp product intended for smoking 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 or hemp product intended for smoking will be released to the purchaser.

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

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

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

~~D. E.~~ *E. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any ~~retail~~ tobacco product or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of ~~retail~~ tobacco products or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the ~~county, city, or town~~ *county, city, or town locality* in which an alleged violation of this subsection occurred may enforce this subsection 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 ~~county, city, or town~~ *county, city, or town locality* which instituted the action.*

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services

may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the ~~county, city, or town~~ *locality* in which an alleged violation of this subsection occurred may enforce this subsection 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 ~~county, city, or town~~ *locality* which instituted the action.

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

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

~~G.~~ As used in this section:

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

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

"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, a cigar, pipe tobacco, 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 pipes. "Retail tobacco product" includes any nicotine vapor product as that term is defined in § 58.1-1021.01. "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.

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

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

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

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

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

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

§ 18.2-391. Unlawful acts; penalties.

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

1. Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or

computer game, electronic file or message containing an image, or similar visual representation or image of a person or portion of the human body ~~which~~ *that* depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and ~~which~~ *that* is harmful to juveniles, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- b. The address of the applicant's principal place of business;
- c. The place or places where the business to be licensed is to be conducted; and
- d. Such other information as the Department may require for the purpose of the administration of this article.

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

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

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

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

~~C. 1. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor products or shipping or transporting liquid nicotine or nicotine vapor products to retailers in the Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the Commonwealth without first having received a separate license from the Department for each location or place of business, and any person who violates such prohibition shall be subject to a penalty of \$400 in addition to any other applicable taxes or fees. Each application for a manufacturer's, distributor's, or retail dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by~~

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

- a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name and address of each of its members shall be provided. If the applicant is a corporation, the name and address of each of its principal officers shall be provided;
- b. The address of the applicant's principal place of business;
- c. The place or places where the business to be licensed is to be conducted; and
- d. Such other information as the Department may require for the purpose of the administration of this article.

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

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

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

- a. For the first violation in a 36-month period, a penalty of no less than \$1,000;
- b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i) of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30 years of age is of legal age by verifying such consumer's government-issued photographic identification using fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and
- c. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the liquid nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor products license for a period of three years from the date of the most recent violation.

5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine vapor products without verifying 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 providing for age verification through an independent age verification service that

compares information available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is of age.

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

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

§ 59.1-200. Prohibited practices.

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

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.
In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;
9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;
11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;
12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;
13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;
- 13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;
14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;
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, or 3.2-6519 is a violation of this chapter;

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

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

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

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

43. Violating any provision of § 59.1-443.2;

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

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision, "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer by a supplier to a small business, as those terms are defined in § 59.1-207.45;
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
67. Knowingly violating any provision of § 8.01-27.5;
68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an obligation to pay for the goods or services;
69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as 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 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting

body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

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

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

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

75. Violating any provision of § 59.1-466.8;

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 59.1-293.10. Definitions.

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

"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.

"Department" means the Department of Taxation.

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

"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.

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

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

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

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

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

"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*.

"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*.

"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.

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

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

1. The provisions of § ~~59.1-293.12~~ *Article 4 (§ 4.1-355 et seq.) of Chapter 3 of Title 4.1*;
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;
3. Forms of identification that are acceptable as proof of age; and
4. The legal penalties that may be incurred for violation of the provisions of law identified in subdivisions 1 and 2.

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

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.

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

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:

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
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 vapor product to the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j on or before

September 9, 2020, and the application either remains under review by the U.S. Food and Drug Administration or a final decision on the application has not otherwise taken effect.

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

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

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

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

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

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

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

§ 59.1-293.17. Removal or exclusion from directory.

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

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

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

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

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

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

§ 59.1-293.18. Agent for service of process.

A. Any nonresident manufacturer of liquid nicotine or nicotine vapor products that has not registered to do business in the Commonwealth as a foreign corporation or business entity shall, as a condition precedent to being included in the directory established by the Attorney General pursuant to ~~§ 59.1-293.12~~ *59.1-293.15*, appoint and continually engage without interruption the services of an agent in the Commonwealth to act as

agent for the service of process in any action or proceeding against such nonresident manufacturer concerning or arising out of the enforcement of this chapter, and such nonresident manufacturer may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonresident manufacturer. The manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of such agent to the Attorney General.

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

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

§ 59.1-293.20. Sale or distribution prohibited.

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

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

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

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

~~E. the following civil penalties:~~

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

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

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

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

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

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

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

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

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

§ 59.1-293.21. Enforcement; inspection; forfeiture.

A. Notwithstanding any other provisions of law to the contrary, *the Attorney General*, any attorney for the Commonwealth, or the attorney for any city, county, or town may cause an action to be brought in the

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

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

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

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

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

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

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 Virginia are repealed.

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

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

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

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

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