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SENATE BILL NO. 853

Offered January 13, 2027

Prefiled November 9, 2026

A BILL to amend and reenact §§ 18.2-11, 22.1-279.6, 33.2-802, 33.2-2220, 33.2-2917, 36-85.12, 38.2-619, 38.2-1916.1, 40.1-49.4, 45.2-1006, 45.2-1021, 46.2-112, 53.1-55, 56-524, 57-59, 59.1-9.10, 59.1-75, 62.1-44.32, 62.1-44.34:20, 62.1-194.3, and 62.1-270 of the Code of Virginia, relating to misdemeanor; maximum term of confinement.

Patron—Salim

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-11, 22.1-279.6, 33.2-802, 33.2-2220, 33.2-2917, 36-85.12, 38.2-619, 38.2-1916.1, 40.1-49.4, 45.2-1006, 45.2-1021, 46.2-112, 53.1-55, 56-524, 57-59, 59.1-9.10, 59.1-75, 62.1-44.32, 62.1-44.34:20, 62.1-194.3, and 62.1-270 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-11. Punishment for conviction of misdemeanor.

The authorized punishments for conviction of a misdemeanor are:

~~(a)~~ *1.* For Class 1 misdemeanors, confinement in jail for not more than ~~twelve months~~ *364 days* and a fine of not more than $2,500, either or both.

~~(b)~~ *2.* For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than $1,000, either or both.

~~(c)~~ *3.* For Class 3 misdemeanors, a fine of not more than $500.

~~(d)~~ *4.* For Class 4 misdemeanors, a fine of not more than $250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension, expulsion, and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal, and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, cyberbullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations,

that is, confinement in jail for not more than ~~12 months~~ *364 days* and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and cyberbullying developed by the Board pursuant to subsection A; (ii) direct the principal or his designee to notify the parent of any student involved in an alleged incident of bullying within 24 hours of learning of the allegation of bullying; (iii) address instances of cyberbullying that occur outside of school property between students enrolled in the school division; (iv) provide protections designed to ensure that any student who is a victim of or a witness to an instance of cyberbullying is not deterred from reporting or seeking support for such instance of cyberbullying by fears of retaliation, social alienation or rejection, or other negative treatment; and (v) include a list of support services and resources available through each public school to any student who is a victim of cyberbullying relating to reporting and seeking support after experiencing an instance of cyberbullying, including mental health support services, and any information necessary to access any such support services and resources.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing any retail tobacco product or hemp product intended for smoking, as those terms are defined in § ~~18.2-371.2~~ *4.1-600*, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

§ 33.2-802. Dumping trash; penalty.

A. It is unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal as defined in § 3.2-6500 for the purpose of disposal, or other unsightly matter on (i) public property, including a public highway, right-of-way, or property adjacent to such highway or right-of-way, or (ii) private property without the written consent of the owner or his agent.

B. If a person is arrested for a violation of this section and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of § 46.2-936 in making an arrest.

If a violation of this section has been observed by any person and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of the motor vehicle shall be presumed to be the person ejecting or disposing of the matter. However, such presumption shall be rebuttable by competent evidence.

C. Any person convicted of a violation of this section is guilty of a misdemeanor punishable by confinement in jail for not more than ~~12 months~~ *364 days* and a fine of not less than $500 or more than $2,500, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of 10 hours of community service in litter abatement activities.

D. The governing body of any locality may adopt ordinances not in conflict with the provisions of this section and may repeal or amend such ordinances.

E. The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

§ 33.2-2220. Miscellaneous; penalties.

A. Any action taken by the Commission under the provisions of this chapter may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

B. The project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Commission. The project shall also be policed and operated by such force of police, toll-collectors, and other operating employees as the Commission may in its discretion employ.

C. All other police officers of the Commonwealth and of each locality or political subdivision of the Commonwealth through which any project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such projects as they have beyond such limits and shall have access to the project at any time for the purpose of exercising such powers and jurisdiction.

D. All private property damaged or destroyed by the construction of the project or any part thereof shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

E. On or before the last day of February in each year, the Commission shall make an annual report of its activities during the preceding calendar year to the Governor. In each report, the Commission shall set forth a complete operating and financial statement covering its operations during the year. The Commission shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants, and the cost thereof may be treated as a part of the cost of construction or operation of the project. The records, books, and accounts of the Commission shall be subject to examination and inspection by duly authorized representatives of the Governor, the Commonwealth Transportation Board, the governing bodies of the political subdivisions constituting the District, and any bondholder at any reasonable time, provided the business of the Commission is not unduly interrupted or interfered with by such action.

F. Any member, agent, or employee of the Commission who contracts with the Commission or District or is interested, either directly or indirectly, in any contract with the Commission or District or in the sale of any property, either real or personal, to the District shall be punished by a fine of not more than $1,000 or by imprisonment for not more than ~~one year~~ *364 days*, or both.

G. Any person who uses the project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than $100 or by imprisonment for not more than 30 days, or both. In addition, the Commission shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges in connection therewith shall have been paid.

§ 33.2-2917. Miscellaneous.

A. Any money set aside for the payment of the principal of or interest on any bonds issued by the Authority not claimed within two years from the day the principal of such bonds is due by maturity or by call for redemption shall be paid into the state treasury. No interest shall accrue on such principal or interest from the day the same is due. The Comptroller shall keep an account of all money thus paid into the state treasury, and it shall be paid to the individual partnership, association, or corporation entitled thereto upon satisfactory proof that such individual, partnership, association, or corporation is so entitled to such money. If the claim so presented is rejected by the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the Court of Appeals as in actions at law, and all laws and rules relating to practice and procedure in actions at law shall apply to such authorized proceedings. No such proceedings shall be filed after 10 years from the day the principal of or interest on such bonds is due; however, if the individual having such claim is an infant or insane person or is imprisoned at such due date, such proceedings may be filed within five years after the removal of such disability, notwithstanding the fact that such 10-year period has expired.

B. The Authority may contract with the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police for the policing of any Authority facilities, and the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police are hereby authorized to enter into contracts with the Authority for such purpose. Police officers providing police services pursuant to such contracts shall be under the exclusive control and direction of the authority providing such officers and shall be responsible to that authority exclusively for the performance of their duties and the exercise of their powers. The Authority shall reimburse the City of Richmond, the County of Henrico or Chesterfield, or the Commonwealth in such amounts and at such time as shall be mutually agreed upon for providing police service. Such officers shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and all regulations of the Authority made in accordance, and such officers shall have all the rights and duties of police officers as provided by the general laws of the Commonwealth. The violation of any such regulation shall be punishable as follows: if such a violation would have been a violation of law if committed on any public highway in the City of Richmond or the County of Henrico or Chesterfield, it shall be punishable in the same manner as if it had been committed on such public highway; otherwise it shall

be punishable as a Class 1 misdemeanor. All other police officers of the Commonwealth, the City of Richmond, and the Counties of Henrico and Chesterfield shall have the same powers and jurisdiction within the areas of operations agreed upon by the parties that they have beyond such limits and shall have access to all such areas at any time without interference for the purpose of exercising such powers and jurisdiction. For the purpose of enforcing such laws and regulations, the court having jurisdiction for the trial of criminal offenses committed in the City of Richmond or in the Counties of Henrico and Chesterfield within whose boundaries any crime is committed shall have jurisdiction to try any person charged with the violation of any such laws and regulations within such boundaries. A copy of the regulations of the Authority, attested by the secretary or secretary-treasurer of the Authority, may be admitted as evidence in lieu of the original. Any such copy purporting to be sealed and signed by such secretary or secretary-treasurer may be admitted as evidence without any proof of the seal or signature or of the official character of the person whose name is signed to it.

C. All actions at law and suits in equity and other proceedings, actions, and suits against the Authority, or any other person, firm, or corporation, growing out of the construction, maintenance, repair, operation, and use of any Authority facility, or growing out of any other circumstances, events, or causes in connection therewith, unless otherwise provided in this section, shall be brought and conducted in the court having jurisdiction of such actions, suits, and proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the causes of such actions, suits, and proceedings arise, and jurisdiction is hereby conferred on such court for that purpose. All such actions, suits, and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court of the City of Richmond, except as otherwise provided in this section, and exclusive jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings instituted and conducted by the Authority shall be brought and conducted in the court having jurisdiction of such proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the land or other property to be so acquired or the major portion thereof is situated, and jurisdiction is hereby conferred on such court for such purpose.

D. On or before September 30 of each year, the Authority shall prepare a report of its activities for the 12-month period ending the preceding July 1 of such year and shall file a copy thereof with the Commonwealth Transportation Board, the City of Richmond, and the Counties of Henrico and Chesterfield. Each such report shall set forth an operating and financial statement covering the Authority's operations during the 12-month period covered by the report. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants to be selected by the Authority, and the cost of such audit shall be treated as a part of the cost of construction and operation of a project.

E. The records, books, and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the Commonwealth Transportation Board, the governing bodies of the City of Richmond and the Counties of Henrico and Chesterfield, and any bondholder at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

F. Any member, agent, or employee of the Authority who contracts with the Authority or is interested in contracting with the Authority or in the sale of any property, either real or personal, to the Authority ~~shall be~~ *is* guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or imprisonment in jail for not more than ~~one year~~ *364 days*, either or both. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Circuit Court of the City of Richmond, provided that the term "contract," as used in this chapter, shall not be held to include the depositing of funds in, the borrowing of funds from, or the serving as agent or trustee by any bank in which any member, agent, or employee of the Authority may be a director, officer, or employee or have a security interest, nor shall such term include contracts or agreements with the Commonwealth Transportation Board or the purchase of services from, or other transactions in the ordinary course of business with, public service corporations.

§ 36-85.12. Violation; civil and criminal penalties.

It ~~shall be~~ *is* unlawful for any person, firm, or corporation~~,~~ to violate any provisions of this law, the rules and regulations enacted under authority of this law, or the Federal ~~Law~~ *Act* and *Federal* Regulations. Any person, firm, or corporation violating any provision of ~~said laws, rules and~~ *such law or* regulations, or any final order issued thereunder, shall be liable for *a* civil penalty not to exceed $1,000 for each violation. Each violation shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or to perform an act required by ~~the legislation~~ *such law* or regulations. The maximum civil penalty may not exceed ~~one~~ *$1* million ~~dollars~~ for any related series of violations occurring within one year from the date of the first violation.

An individual or a director, officer, or agent of a corporation who knowingly and willfully violates ~~Section~~ *§* 610 of the ~~National Manufactured Housing Construction and Safety Standards~~ *Federal* Act in a manner ~~which~~ *that* threatens the health or safety of any purchaser ~~shall be deemed~~ *is* guilty of a Class 1 misdemeanor and, upon conviction, *shall be* fined not more than $1,000 or imprisoned not more than ~~one year~~ *364 days*, or both.

§ 38.2-619. Obtaining information under false pretenses.

Any person who knowingly and willfully obtains information about an individual from an insurance

institution, agent, or insurance-support organization under false pretenses shall be fined not more than $10,000 or punished by confinement in jail for not more than ~~12~~ ~~months~~ *364 days*, or both.

§ 38.2-1916.1. Investigation by Attorney General of suspected violations; investigative demand to witnesses; access to business records, etc.; penalties.

A. 1. Whenever it appears to the Attorney General, either upon complaint or otherwise, that any person has engaged in, or is engaging in, or is about to engage in any act or practice prohibited by § 38.2-1916, or any violation of subsection D of § 38.2-1919, the Attorney General may, consistent with his powers and duties to enforce the laws of the Commonwealth prohibiting conduct that unreasonably restrains trade, after notice to the Commission:

a. Either require or permit such person to file with him a statement in writing or otherwise, under oath, as to all facts and circumstances concerning the subject matter;

b. Require such other data and information as he may deem relevant to the subject matter of an investigation of a possible violation of § 38.2-1916 or subsection D of § 38.2-1919; and

c. Issue an investigative demand to witnesses by which he may (i) compel the attendance of such witnesses; (ii) examine such witnesses under oath before himself or the Commission; (iii) subject to subsection B of this section, require the production of any documents or things that he deems relevant or material to the inquiry; and (iv) issue written interrogatories to be answered by the witness served or, if the witness served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the witness.

2. The investigative powers authorized shall not abate or terminate by reason of any action or proceeding brought by the Attorney General or the Commission under this title. When a document or thing is demanded by an investigative demand, that demand shall not (i) contain any requirement that would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this Commonwealth; or (ii) require the disclosure of any document or thing that would be privileged, or production of which for any other reason would not be required by a subpoena duces tecum issued by a court of this Commonwealth.

B. Where the information requested pursuant to an investigative demand may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records, or from a compilation, abstract, or summary based therein, and the burden of deriving or ascertaining the answer is substantially the same for the Attorney General as for the party from whom such information is requested, it shall be sufficient for that party to specify the records from which the answer may be derived or ascertained and to afford the Attorney General, or other individuals properly designated by the Attorney General, reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries. The Attorney General is authorized, and may so elect, to require the production pursuant to this section, of documents or things before or after the taking of any testimony of the person summoned pursuant to an investigative demand, in which event, those documents or things shall be made available for inspection and copying during normal business hours at the principal place of business of the person served, or at such other time and place as may be agreed upon by the person served and the Attorney General.

C. Any investigative demand issued by the Attorney General under this section shall contain (i) a citation to this statute and section, (ii) a citation to the statute and section pertaining to the alleged violation under investigation, (iii) the subject matter of the investigation, and (iv) the date, place, and time the person is required to appear to produce testimony or documentary material in his possession, custody or control. Such date shall not be less than twenty days from the date of the investigative demand. Where documentary material is required to be produced, it shall be described by class so as to clearly indicate the material demanded.

D. Service of an investigative demand as provided in this section may be made by:

1. Delivery of a duly executed copy thereof to the person served or, if a person is not a natural person, to the principal place of business of the person to be served; or

2. Mailing by certified mail, return receipt requested, a duly executed copy thereof addressed to the person to be served at his principal place of business in this Commonwealth, or if that person has no place of business in this Commonwealth, to his principal office.

E. Within twenty days after the service of any such demand upon any person or enterprise, or at any time before the return date specified in the demand, whichever period is shorter, such party may file with the Commission and serve upon the Attorney General a petition for an order of the Commission modifying or setting aside such demand. The time allowed for compliance with the demand, in whole or in part as deemed proper and ordered by the Commission, shall not run during the pendency of such petition in the Commission. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such party. The provisions of this subsection shall be the exclusive means for a witness summoned pursuant to an investigative demand under this section to challenge an investigative demand issued pursuant to subsection A ~~of this section~~.

F. The examination of all witnesses under this section shall be conducted by the Attorney General, or his

designee, before an officer authorized to administer oaths in this Commonwealth. The testimony shall be taken stenographically or by a sound-recording device and shall be transcribed.

G. Any person required to testify or to submit documentary evidence shall be entitled, on payment of lawfully prescribed cost, to procure a copy of any document produced by such person and of his own testimony as stenographically reported or, in the case of depositions, as reduced to writing by or under the direction of a person taking the deposition. Any party compelled to testify or to produce documents or things may be accompanied and advised by counsel, but counsel may not, as a matter of right, otherwise participate in the investigation.

H. All persons served with an investigative demand by the Attorney General under this section, other than any person or persons whose conduct or practices are being investigated or any officer, director, or person in the employ of such person under investigation, shall be paid the same fees and mileage as paid witnesses in the courts of this Commonwealth. No person shall be excused from attending such inquiry pursuant to the mandate of an investigative demand, from producing a document or thing, or from being examined or required to answer questions, on the ground of failure to tender or pay a witness fee or mileage, unless a demand therefor is made at the time testimony is about to be taken and is made as a condition precedent to offering such production or testimony and unless payment is not made.

I. Any natural person who neglects or refuses (i) to attend and testify, (ii) to answer any lawful inquiry, or (iii) to produce documents or things, if in his power to do so, in obedience of an investigative demand or lawful request of the Attorney General or those properly authorized by the Attorney General, pursuant to this section, shall be subject to the penalty provisions of § 38.2-218. Any natural person who commits perjury, false swearing, or contempt in answering or failing to answer, or in producing a document or thing or failing to do so in accordance with an investigative demand or lawful request by the Attorney General, pursuant to this section, ~~shall be~~ *is* guilty of a misdemeanor and upon conviction therefor by a court of competent jurisdiction shall be punished by a fine of not more than $5,000 or by imprisonment in jail for not more than ~~one year~~ *364 days*, or both.

J. In any investigation brought by the Attorney General pursuant to this chapter, no individual shall be excused from attending, testifying or producing documentary material, objects, or intangible things in obedience to an investigative demand or under order of the Commission on the ground that the testimony, document, or thing required of him may tend to incriminate him or subject him to any penalty. No testimony or other information compelled either by the Attorney General or under order of the Commission or a court or any information directly or indirectly derived from such testimony or other information may be used against the individual or witness in any criminal case. However, he may be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing, or contempt committed in answering or failing to answer, or in producing any document or thing or failing to do so in accordance with the demand of the Attorney General or the Commission. If an individual refuses to testify or produce any document or thing after being granted immunity from criminal prosecution and after being ordered to testify or produce any document or thing as authorized by this section, he may be found to be in civil contempt by a court of competent jurisdiction and incarcerated until such time as he purges himself of contempt by testifying, producing such document or thing, or presenting a written statement as ordered. Such finding of contempt shall not prevent the Attorney General from instituting other appropriate contempt proceedings against any person who violates any of the provisions of this section.

K. It shall be the duty of all public state and local officials, their employees, and all other persons to render and furnish to the Attorney General or his designee, when so requested, all information and assistance in their possession or within their power. Any officer participating in such inquiry and any person examined as a witness upon such inquiry who discloses to any person other than the Attorney General the name of any witness examined or any other information obtained upon such inquiry, except as so directed by the Attorney General, ~~shall be~~ *is* guilty of a misdemeanor and subject to the sanctions prescribed in subsection I of this section. Such inquiry may upon written authorization by the Attorney General be made public.

L. The Attorney General may recommend rules and regulations to implement and carry out the provisions of this section. All such rules and regulations shall be subject to the approval of the Commission.

M. It shall be the duty of the Attorney General, or his designees, to maintain the secrecy of all evidence, testimony, documents, or other results of such investigations until formal proceedings are instituted. Violation of this subsection shall be punishable pursuant to § 38.2-218. Nothing contained in this section shall be construed to prevent the disclosure of any such investigative evidence by the Attorney General in his discretion to the Commissioner of Insurance, the State Corporation Commission, or to any federal or state law-enforcement authority that has restrictions governing confidentiality similar to those contained in this subsection.

§ 40.1-49.4. Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; injunctions; penalties.

A. 1. If the Commissioner has reasonable cause to believe that an employer has violated any safety or health provision of Title 40.1 or any standard, rule or regulation adopted pursuant thereto, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe

with particularity the nature of the violation or violations, including a reference to the provision of this title or the appropriate standards, rules or regulations adopted pursuant thereto, and shall include an order of abatement fixing a reasonable time for abatement of each violation.

2. The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.

3. No citation may be issued under this section after the expiration of six months following the occurrence of any alleged violation.

4. (a) The Commissioner shall have the authority to propose civil penalties for cited violations in accordance with subsections G, H, I, and J. In determining the amount of any proposed penalty he shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. In addition, the Commissioner shall have authority to assess interest on all past-due penalties and administrative costs incurred in the collection of penalties for such violations consistent with § 2.2-4805.

(b) After, or concurrent with, the issuance of a citation and order of abatement, and within a reasonable time after the termination of an inspection or investigation, the Commissioner shall notify the employer by certified mail, by commercial delivery service with signed and dated acknowledgment of delivery, or by personal service of the proposed penalty or that no penalty is being proposed. The proposed penalty shall be deemed to be the final order of the Commissioner and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the Commissioner in writing that he intends to contest the citation, order of abatement or the proposed penalty or the employee or representative of employees has filed a notice in accordance with subsection B of this section and any such notice of proposed penalty, citation or order of abatement shall so state.

B. Any employee or representative of employees of an employer to whom a citation and order of abatement has been issued may, within 15 working days from the time of the receipt of the citation and order of abatement by the employer, notify the Commissioner, in writing, that they wish to contest the abatement time before the circuit court.

C. If the Commissioner has reasonable cause to believe that an employer has failed to abate a violation for which a citation has been issued within the time period permitted for its abatement, which time shall not begin to run until the entry of a final order in the case of any contest as provided in subsection E ~~of this section~~ initiated by the employer in good faith and not solely for delay or avoidance of penalties, a citation for failure to abate will be issued to the employer in the same manner as prescribed by subsection A. In addition, the Commissioner shall notify the employer by certified mail, by commercial delivery service with signed and dated acknowledgment of delivery, or by personal service of such failure and of the penalty proposed to be assessed by reason of such failure. If, within 15 working days from the date of receipt of the notice of the proposed penalty, the employer fails to notify the Commissioner that he intends to contest the citation or proposed assessment of penalty, the citation and assessment as proposed shall be deemed a final order of the Commissioner and not subject to review by any court or agency.

D. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasurer of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

E. Upon receipt of a notice of contest of a citation, proposed penalty, order of abatement or abatement time pursuant to subdivision A 4 (b) or subsection B or C, the Commissioner shall immediately notify the attorney for the Commonwealth for the jurisdiction wherein the violation is alleged to have occurred and shall file a civil action with the circuit court. Upon issuance and service of process, the circuit court shall promptly set the matter for hearing without a jury. The circuit court shall thereafter issue a written order, based on findings of fact and conclusions of law, affirming, modifying or vacating the Commissioner's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 21 days after its issuance. The circuit court shall provide affected employees or their representatives and employers an opportunity to participate as parties to hearings under this subsection.

F. 1. In addition to the remedies set forth above, the Commissioner may file a civil action with the clerk of the circuit court having equity jurisdiction over the employer or the place of employment involved asking the court to temporarily or permanently enjoin any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence

of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. No order issued without prior notice to the employer shall be effective for more than five working days. Whenever and as soon as the Commissioner concludes that conditions or practices described in this subsection exist in any place of employment and that judicial relief shall be sought, he shall immediately inform the affected employer and employees of such proposed course of action.

2. Any court described in this section shall also have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder.

3. If the Commissioner arbitrarily or capriciously fails to seek relief under subdivision 1 of this subsection, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in a circuit court of competent jurisdiction for a writ of mandamus to compel the Commissioner to seek such an order and for such further relief as may be appropriate.

G. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to $12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

H. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is determined to be a serious violation shall be assessed a civil penalty of up to $12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

I. Any employer who fails to abate a violation for which a citation has been issued within the period permitted for its abatement (which period shall not begin to run until the entry of the final order of the circuit court) may be assessed a civil penalty of not more than $12,471, as such amount may be adjusted as provided in subsection P, for each day during which such violation continues.

J. Any employer who willfully or repeatedly violates any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto may be assessed a civil penalty of not more than $124,709, as such amount may be adjusted as provided in subsection P, for each such violation.

K. Any employer who willfully violates any safety or health provisions of this title or standards, rules, or regulations adopted pursuant thereto, and that violation causes death to any employee, shall, upon conviction, be punished by a fine of not more than $70,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than $140,000 or by imprisonment for not more than ~~one~~ ~~year~~ *364 days*, or by both such fine and imprisonment.

L. In any proceeding before a judge of a circuit court parties may obtain discovery by the methods provided for in the Rules of Supreme Court of Virginia.

M. No fees or costs shall be charged the Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings, or other papers in any action authorized by this section or § 40.1-49.5.

N. Every official act of the circuit court shall be entered of record and all hearings and records shall be open to the public, except any information subject to protection under the provisions of § 40.1-51.4:1.

O. The provisions of Chapter 30 (§ 59.1-406 et seq.) of Title 59.1 shall be considered safety and health standards of the Commonwealth and enforced as to employers pursuant to this section by the Commissioner of Labor and Industry.

P. Beginning in 2018, the Commissioner annually shall adjust the maximum civil penalties stated in subsections G through J each year by the percentage increase, if any, in the United States Average Consumer Price Index for all Urban Consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the previous calendar year. The amount of each adjustment to the maximum civil penalties shall be rounded to the nearest whole dollar. The adjustments to the maximum civil penalties shall be effective on each August 1. If the CPI-U is discontinued or revised, such other historical index or computation approved by the Commissioner shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI-U had not been discontinued or revised.

§ 45.2-1006. Resisting, etc., Director or agent of the Director; penalty.

It is a misdemeanor, punishable by a fine of not more than $5,000, confinement in jail for not more than ~~one~~ ~~year~~ *364 days*, or both, for any person, except as permitted by law, to willfully resist, prevent, impede, or interfere with the Director or any agent of the Director in the performance of duties pursuant to this chapter.

§ 45.2-1021. Civil and criminal penalties.

A. Any permittee who violates any permit condition or any other provision of this chapter or the

regulations adopted hereunder may be assessed a civil penalty by the Director, except that if such violation leads to the issuance of a cessation order, the civil penalty shall be assessed. Such penalty shall not exceed $5,000 for each violation except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty shall not exceed $70,000 for each violation. Each day of continuing violation may be deemed a separate violation for the purposes of assessing penalties. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular coal surface mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

B. A civil penalty may be assessed by the Director only after the person charged with a violation has been given an opportunity for a public hearing. After such public hearing has been held, the Director shall make findings of fact and issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating therein, when appropriate, an order requiring that the penalty be paid. When appropriate, the Director shall consolidate such hearing with other proceedings pursuant to the provisions of this chapter. Any hearing under this section shall be a formal adjudicatory hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). If the person charged with such violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Director after the Director determines that a violation has occurred and the amount of the penalty warranted and issues an order requiring that the penalty be paid.

C. Upon the issuance of a notice or order charging that a violation described under subsection A has occurred, the Director shall inform the permittee within 30 days of the proposed amount of the penalty. Such permittee shall, within 30 days of being so informed, pay the proposed penalty in full or, if the permittee contests either the amount of the penalty or the fact of the violation, forward the proposed amount to the Director for placement in an interest-bearing trust account in the state treasury. Failure to forward the money to the Director within 30 days constitutes a waiver of all legal rights to contest the violation or the amount of the penalty. If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty will be reduced, the Director shall within 30 days of such determination remit the appropriate amount to the permittee with accrued interest thereon.

D. If a permittee required to pay a civil penalty fails to do so, the Director may transmit a true copy of the final order assessing such penalty to the clerk of the court of any county or city wherein it is ascertained that the permittee owing the penalty has any estate; and the clerk to whom such copy is sent shall record such final order, as a judgment is required by law to be recorded, and index it in the name of the Commonwealth and the name of the person owing the penalty. Upon such recording and indexing, there shall be a lien in favor of the Commonwealth on the property of the permittee within such county or city in the amount of the penalty. The Director may collect civil penalties that are owed in the same manner as provided by law in respect to judgment of a court of record. All civil penalties shall be paid into a special fund in the state treasury to be used by the Director for enhancing conservation and recreational opportunities in the coal-producing counties of the Commonwealth. The Director shall transfer quarterly 50 percent of the fund balance to the Virginia Coalfield Economic Development Authority, created pursuant to Chapter 60 (§ 15.2-6000 et seq.) of Title 15.2, for the purposes of developing infrastructure and improvements at Breaks Interstate Park and 50 percent of the fund balance to the Heart of Appalachia Tourism Authority for the purpose of developing conservation and recreational opportunities consistent with the provisions of Chapter 55 (§ 15.2-5500 et seq.) of Title 15.2.

E. Any person who willfully and knowingly (i) conducts any coal surface mining or coal exploration operation without first obtaining a permit, or after a permit has lapsed, or after suspension or revocation of a permit; (ii) violates a condition of a permit issued pursuant to this chapter; or (iii) disregards or fails or refuses to comply with any regulation adopted or order issued pursuant to the provisions of this chapter, except an order incorporated in a decision under subsection B, shall upon conviction be punished by a fine of not more than $10,000, by confinement in jail for not more than ~~12 months~~ *364 days*, or both.

F. Whenever a corporate permittee violates a condition of a permit or disregards or fails or refuses to comply with any order issued under this chapter, except an order incorporated in a decision issued under subsection B, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal is subject to the same civil penalties, fines, and confinement in jail to which a person may be subject under subsections A and E.

G. Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any required statement, representation, or certification, in any application, objection, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, any regulation adopted hereunder, or any order or decision issued by the Director under this chapter shall upon conviction be punished by a fine of not more than $10,000, by confinement in jail for not more than ~~12 months~~ *364 days*, or both.

H. Any operator who within the period permitted for the correction of such violation fails to correct a violation for which a notice or order has been issued shall be assessed a civil penalty of not less than $750 for

each day during which such failure or violation occurs. Such period for the correction of a violation shall not end until the entry of (i) a final order by the Director, in the case of any review proceedings initiated by the operator wherein the Director orders, after an expedited hearing, the suspension of the abatement requirements of the notice or order after determining that the operator is likely to suffer irreparable loss or damage from the application of such requirements or (ii) an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements.

§ 46.2-112. Tampering with odometer; penalty; civil liability.

A. It ~~shall be~~ *is* unlawful to knowingly cause, either personally or through an agent, the changing, tampering with, disconnection, or nonconnection of any odometer or similar device designed to show by numbers or words the distance which a motor vehicle has traveled or the use it has sustained.

B. It ~~shall be~~ *is* unlawful for any person to sell a motor vehicle if he knows or should reasonably know that the odometer or similar device of the motor vehicle has been changed, tampered with, or disconnected to reflect a lesser mileage or use, unless he gives clear and unequivocal notice of such tampering, etc., or of his reasonable belief thereof, to the purchaser in writing prior to the sale. In a prosecution under this subsection, evidence that a person or his agent has changed, tampered with, disconnected, or failed to connect an odometer or similar device of a motor vehicle shall constitute prima facie evidence of knowledge thereof.

C. It ~~shall be~~ *is* unlawful for any person to advertise for sale, sell, or use any device designed primarily for the purpose of resetting the odometer or similar device of a motor vehicle in any manner.

D. The provisions of this section shall not apply to the following:

1. The changing of odometer or similar device readings registered in the course of predelivery testing of any motor vehicle by its manufacturer prior to its delivery to a dealer.

2. Any necessary repair or replacement of an odometer or similar device, provided that the repaired or replaced odometer or similar device is forthwith set at a reading determined by the reading on the device immediately prior to repair or replacement plus a bona fide estimate of the use of the vehicle sustained between the period when the device ceased to accurately record that use and the time of repair or replacement. Compliance with the requirements of 49 USC § 32704 of the Federal Odometer Act in the service, repair, or replacement of an odometer shall be deemed compliance with this subdivision.

3. Passenger vehicles having a capacity in excess of 15 persons.

4. Trucks having a net weight in excess of 10,000 pounds.

E. Any person convicted of a violation of the provisions of subsections A through D shall, for a first offense, be fined not more than $10,000 and sentenced to a term of confinement in jail for not more than ~~12 months~~ *364 days*, either or both. Any person convicted of a subsequent offense under this section shall be fined not more than $50,000 and sentenced to a term of confinement in a state correctional facility for not less than one year nor more than five years, either or both, for each offense if the offense is committed with the intent thereby to defraud another. Each violation of this section shall constitute a separate offense.

F. Any person who with intent to defraud violates subsection A or B shall be liable in a civil action in an amount equal to three times the amount of actual damages sustained or $3,000, whichever is greater. In the case of a successful action to enforce the foregoing liability, the costs of the action, together with reasonable attorney fees as determined by the court, shall be assessed against the person committing the violation. An action under this subsection shall be brought within two years from the date on which liability arises. For the purpose of this subsection, liability arises when the injured party discovers, or with due diligence should have discovered, the violation.

§ 53.1-55. Sale or exchange of goods manufactured by prisoners of other states.

It ~~shall be~~ *is* unlawful for any person within this Commonwealth to buy or acquire by exchange on the open market, either for his own use or for the purpose of resale, or for any person to sell or exchange on the open market within this Commonwealth, any goods, wares, or merchandise prepared in whole or in part, or manufactured by prisoners of any other state, other than prisoners on parole or probation.

Any person or any agent or manager for any person who shall violate any provision of this section ~~shall be~~ *is* guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than $500 or imprisonment for not more than ~~one year~~ *364 days*, or both in the discretion of the court or jury trying the case.

§ 56-524. Penalties.

Any person violating any of the provisions of ~~§§~~ *§* 56-512, 56-515, or ~~§~~ 56-517 ~~shall be~~ *is* guilty of a misdemeanor and upon conviction of same shall be fined not less than $10 nor more than $1,000, and may be imprisoned in jail for not more than ~~12 months~~ *364 days*.

§ 57-59. Enforcement of chapter; seizure of property connected with terrorism; penalties.

A. Any person who willfully and knowingly violates or causes to be violated any provision of this chapter, or who willfully and knowingly gives false or incorrect information to the Commissioner in filing statements or reports required by this chapter, whether such report or statement is verified or not, ~~shall be~~ *is* guilty of a misdemeanor and, upon conviction thereof, shall be punished for the first offense by a fine of not less than $100 and not more than $1,000 or by confinement in jail for not more than six months, or both, and for the second and any subsequent offense by a fine of not less than $500 and not more than $2,500 or by

confinement in jail for not more than ~~one~~ ~~year~~ *364 days*, or both.

The following property shall be subject to lawful seizure by any law-enforcement officer charged with enforcing the provisions of this chapter: all moneys or other property, real or personal, together with any interest or profits derived from the investment of such money and used in substantial connection with an act of terrorism as defined in § 18.2-46.4. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

B. Whenever the Commissioner has reasonable cause to believe that a violation of this chapter may have occurred, the Commissioner, upon his own motion or upon complaint of any person, may investigate any charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor to determine whether such charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor has violated the provisions of this chapter. In the conduct of such investigation, the Commissioner may:

1. Require or permit any person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all facts and circumstances concerning the matter to be investigated.

2. Administer oaths or affirmations and, upon his motion or upon request of any party, subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangibles and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

Any proceedings or hearings by the Commissioner under this chapter, where witnesses are subpoenaed and their attendance is required for evidence to be taken or any matter is to be produced to ascertain material evidence, shall take place within the City of Richmond.

Upon failure to obey a subpoena and upon reasonable notice to all persons affected thereby, the Commissioner may apply to the Circuit Court of the City of Richmond for an order imposing punishment for contempt of the subpoena or compelling compliance.

C. Whenever the Attorney General has reasonable cause to believe that any person has operated, is operating or is about to operate in violation of the provisions of this chapter, the Attorney General may issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to this subsection.

D. Whenever the Attorney General, or any attorney for the Commonwealth or the attorney for any city, county or town has reason to believe that any charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor has operated, is operating or is about to operate in violation of the provisions of this chapter, the Attorney General, attorney for the Commonwealth or the attorney for any city, county or town, in addition to all other actions authorized by law, may bring an action in the name of the Commonwealth against such charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor, or their officers, directors, or other agents to enjoin the continuation of such violation, solicitation, or collection, or the engaging therein, or the conducting of any acts in furtherance thereof and for such other relief as the court deems appropriate.

E. In any action brought under subsection D, the court may also award to the Commonwealth a civil penalty of not more than $5,000 per violation, to be paid to the Literary Fund, reasonable expenses incurred by the state or local agency in investigating and preparing the case, not to exceed $250 per violation, and attorney's fees. Such expenses and attorney's fees shall be paid into the general fund of the Commonwealth or of the county, city, or town which such attorney represented.

§ 59.1-9.10. Investigation by Attorney General of suspected violations; civil investigative demand to witnesses; access to business records, etc.

A. Whenever it shall appear to the Attorney General, either upon complaint or otherwise, that any person has engaged in, or is engaging in, or is about to engage in any act or practice prohibited by this chapter, the Attorney General may in his discretion either require or permit such person to file with him a statement in writing or otherwise, under oath, as to all facts and circumstances concerning the subject matter. The Attorney General may also require such other data and information as he may deem relevant to the subject matter of an investigation of a possible violation of this chapter and may make such special and independent investigations as he may deem necessary in connection with such matter.

B. In connection with any such investigation, the Attorney General, or his designee, is empowered to issue a civil investigative demand to witnesses by which he may (i) compel the attendance of such witnesses; (ii) examine such witnesses under oath before himself or a court of record; (iii) subject to subsection C, require the production of any books or papers that he deems relevant or material to the inquiry; and (iv) issue written interrogatories to be answered by the witness served or, if the witness served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the witness. The above investigative powers shall not abate or terminate by reason of any action or proceeding brought by the Attorney General under this chapter. When documentary material is demanded by a civil investigative demand, said demand shall not: (1) contain any requirement that would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this

Commonwealth; or (2) require the disclosure of any documentary material that would be privileged, or production of which for any other reason would not be required by a subpoena duces tecum issued by a court of the Commonwealth.

C. Where the information requested pursuant to a civil investigative demand may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based therein, and the burden of deriving or ascertaining the answer is substantially the same for the Attorney General as for the party from whom such information is requested, it is sufficient for that party to specify the records from which the answer may be derived or ascertained and to afford the Attorney General, or other individuals properly designated by the Attorney General, reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. Further, the Attorney General is hereby authorized, and may so elect, to require the production pursuant to this section, of documentary material before or after the taking of any testimony of the person summoned pursuant to a civil investigative demand, in which event, said documentary matter shall be made available for inspection and copying during normal business hours at the principal place of business of the person served, or at such other time and place, as may be agreed upon by the person served and the Attorney General.

D. Any civil investigative demand issued by the Attorney General shall contain the following information:

1. The statute and section hereof, the alleged violation of which is under investigation and the subject matter of the investigation.

2. The date and place at which time the person is required to appear to produce documentary material in his possession, custody, or control in the office of the Attorney General located in Richmond, Virginia. Such date shall not be less than ~~twenty~~ *20* days from the date of the civil investigative demand.

3. Where documentary material is required to be produced, the same shall be described by class so as to clearly indicate the material demanded.

E. Service of civil investigative demand of the Attorney General as provided herein may be made by:

1. Delivery of a duly executed copy thereof to the person served, or if a person is not a natural person, to the principal place of business of the person to be served, or

2. Mailing by certified mail, return receipt requested, a duly executed copy thereof addressed to the person to be served at his principal place of business in the Commonwealth, or if said person has no place of business in the Commonwealth, to his principal office.

F. Within ~~twenty~~ *20* days after the service of any such demand upon any person or enterprise, or at any time before the return date specified in the demand, whichever period is shorter, such party may file, in the Circuit Court of the City of Richmond and serve upon the Attorney General a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this chapter or upon any constitutional or other legal right or privilege of such party. The provisions of this subsection shall be the exclusive means for a witness summoned pursuant to a civil investigative demand under this section to challenge a civil investigative demand issued pursuant to subsection B.

G. The examination of all witnesses under this section shall be conducted by the Attorney General, or his designee, before an officer authorized to administer oaths in this Commonwealth. The testimony shall be taken stenographically or by a sound recording device and shall be transcribed.

H. Any person required to testify or to submit documentary evidence shall be entitled, on payment of lawfully prescribed cost, to procure a copy of any document produced by such person and of his own testimony as stenographically reported or, in the case of depositions, as reduced to writing by or under the direction of a person taking the deposition. Any party compelled to testify or to produce documentary evidence may be accompanied and advised by counsel, but counsel may not, as a matter of right, otherwise participate in the investigation.

I. All persons served with a civil investigative demand by the Attorney General under this chapter, other than any person or persons whose conduct or practices are being investigated or any officer, director or person in the employ of such person under investigation, shall be paid the same fees and mileage as paid witnesses in the courts of this Commonwealth. No person shall be excused from attending such inquiry pursuant to the mandate of a civil investigative demand, or from producing a paper or from being examined or required to answer questions on the ground of failure to tender or pay a witness fee or mileage unless demand therefor is made at the time testimony is about to be taken and as a condition precedent to offering such production or testimony and unless payment thereof is not thereupon made.

J. Any natural person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce documentary evidence, if in his power to do so, in obedience of a civil investigative demand or lawful request of the Attorney General or those properly authorized by the Attorney General, pursuant to this section, ~~shall be~~ *is* guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than $5,000, or by imprisonment in jail for not more than ~~one year~~

364 days, or both such fine and imprisonment.

Any natural person who commits perjury or false swearing or contempt in answering, or failing to answer, or in producing evidence or failing to do so in accordance with a civil investigative demand or lawful request by the Attorney General, pursuant to this section, ~~shall be~~ *is* guilty of a misdemeanor and upon conviction therefor by a court of competent jurisdiction shall be punished by a fine of not more than $5,000, or by imprisonment in jail for not more than ~~one year~~ *364 days*, or both such fine and imprisonment.

K. In any investigation brought by the Attorney General pursuant to this chapter, no individual shall be excused from attending, testifying, or producing documentary material, objects, or intangible things in obedience to a civil investigative demand or under order of the court on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to any penalty, but no testimony or other information compelled either by the Attorney General or under order of the court, or any information directly or indirectly derived from such testimony or other information, may be used against the individual or witness in any criminal case. However, he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing, or contempt committed in answering, or failing to answer, or in producing evidence or failing to do so in accordance with the order of the Attorney General or the court. If an individual refuses to testify or produce evidence after being granted immunity from prosecution and after being ordered to testify or produce evidence as aforesaid, he may be adjudged in civil contempt by a court of competent jurisdiction and committed to the county jail until such time as he purges himself of contempt by testifying, producing evidence, or presenting a written statement as ordered. The foregoing shall not prevent the Attorney General from instituting other appropriate contempt proceedings against any person who violates any of the above provisions.

L. It shall be the duty of all public officials, both state and local, their deputies, assistants, clerks, subordinates or employees, and all other persons to render and furnish to the Attorney General, his deputy or other designated representative, when so requested, all information and assistance in their possession or within their power. Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall disclose to any such person other than the Attorney General the name of any witness examined or any other information obtained upon such inquiry, except as so directed by the Attorney General, ~~shall be~~ *is* guilty of a misdemeanor and subject to the sanctions prescribed in subsection J. Such inquiry may upon written authorization of the Attorney General be made public.

M. The Attorney General may promulgate rules and regulations to implement and carry out the provisions of this section.

N. It shall be the duty of the Attorney General, or his designees, to maintain the secrecy of all evidence, testimony, documents, or other results of such investigations. Violation of this subsection ~~shall be~~ *is* a misdemeanor. Nothing herein contained shall be construed to prevent (i) the disclosure of any such investigative evidence by the Attorney General in his discretion to any federal or state law-enforcement authority that has restrictions governing confidentiality similar to those contained in this subsection or (ii) the presentation and disclosure of any such investigative evidence by the Attorney General, in his discretion, in any action or proceeding brought by the Attorney General under this chapter.

§ 59.1-75. Penalty for violation.

Any person violating any of the provisions of this chapter ~~shall be~~ *is* guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding $2,500 or by confinement in jail for not more than ~~one year~~ *364 days*, or both.

§ 62.1-44.32. Penalties.

(a) Except as otherwise provided in this chapter, any person who violates any provision of this chapter, or who fails, neglects, or refuses to comply with any regulation, certificate, land-disturbance approval, or order of the Board, or order of a court, issued as herein provided, shall be subject to a civil penalty not to exceed $32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. Such civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 (§ 10.1-2500 et seq.) of Title 10.1, excluding penalties assessed for violations of Article 2.3 (§ 62.1-44.15:24 et seq.), 2.4 (§ 62.1-44.15:51 et seq.), 2.5 (§ 62.1-44.15:67 et seq.), 9 (§ 62.1-44.34:8 et seq.), or 10 (§ 62.1-44.34:10 et seq.) of Chapter 3.1 of Title 62.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

Such civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury of the county, city, or town in which the violation occurred, to be used for the purpose of abating environmental pollution therein in such manner as the court may, by order, direct, except that where the owner in violation is such county, city, or town itself, or its agent, the court shall direct such penalty to be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 of Title 10.1, excluding penalties assessed for violations of Article 2.3, 2.4, 2.5, 9, or 10 of Chapter 3.1 of Title 62.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

In the event that a county, city, or town, or its agent, is the owner, such county, city, or town, or its agent,

may initiate a civil action against any user or users of a waste water treatment facility to recover that portion of any civil penalty imposed against the owner proximately resulting from the act or acts of such user or users in violation of any applicable federal, state, or local requirements.

(b) Except as otherwise provided in this chapter, any person who willfully or negligently violates (1) any provision of this chapter, any regulation or order of the Board, or any condition of a certificate or land-disturbance approval of the Board, (2) any land-disturbance approval, ordinance, or order of a locality serving as a Virginia Erosion and Stormwater Management Program authority, or (3) any order of a court ~~shall be~~ *is* guilty of a misdemeanor punishable by confinement in jail for not more than ~~12 months~~ *364 days* and a fine of not less than $2,500 nor more than $32,500, either or both. Any person who knowingly violates (A) any provision of this chapter, any regulation or order of the Board, or any condition of a certificate or land-disturbance approval of the Board, (B) any land-disturbance approval, ordinance, or order of a locality serving as a Virginia Erosion and Stormwater Management Program authority, or (C) any order of a court issued as herein provided, or who knowingly makes any false statement in any form required to be submitted under this chapter or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, ~~shall be~~ *is* guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than $5,000 nor more than $50,000 for each violation. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than $10,000. Each day of violation of each requirement shall constitute a separate offense.

(c) Except as otherwise provided in this chapter, any person who knowingly violates any provision of this chapter, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than 15 years and a fine of not more than $250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of $1 million or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

(d) Criminal prosecution under this section shall be commenced within three years of discovery of the offense, notwithstanding the limitations provided in any other statute.

§ 62.1-44.34:20. Enforcement and penalties.

A. Upon a finding of a violation of this article or a regulation or term or condition of approval issued pursuant to this article, the Board is authorized to issue a special order requiring any person to cease and desist from causing or permitting such violation or requiring any person to comply with any such provision, regulation or term or condition of approval. Such special orders shall be issued only after notice and an opportunity for hearing except that, if the Board finds that any discharge in violation of this article poses a serious threat to (i) the public health, safety or welfare or the health of animals, fish, botanic or aquatic life; (ii) a public water supply; or (iii) recreational, commercial, industrial, agricultural or other reasonable uses, the Board may issue, without advance notice or hearing, an emergency special order requiring the operator of any facility, vehicle or vessel to cease such discharge immediately, to implement any applicable contingency plan and to effect containment and cleanup. Such emergency special order may also require the operator of a facility to modify or cease regular operation of the facility, or any portion thereof, until the Board determines that continuing regular operation of the facility, or such portion thereof, will not pose a substantial threat of additional or continued discharges. The Board shall affirm, modify, amend or cancel any such emergency order after providing notice and opportunity for hearing to the operator charged with the violation. The notice of the hearing and the emergency order shall be issued at the same time. If an operator who has been issued such a special order or an emergency special order is not complying with the terms thereof, the Board may proceed in accordance with subsection B of this section, and where the order is based on a finding of an imminent and substantial danger, the court shall issue an injunction compelling compliance with the emergency special order pending a hearing by the Board. If an emergency special order requires modification or cessation of operations, the Board shall provide an opportunity for a hearing within 48 hours of the issuance of the injunction.

B. In the event of a violation of this article or a regulation, administrative or judicial order, or term or condition of approval issued under this article, or in the event of failure to comply with a special order issued by the Board pursuant to this section, the Board is authorized to proceed by civil action to obtain an injunction of such violation, to obtain such affirmative equitable relief as is appropriate and to recover all costs, damages and civil penalties resulting from such violation or failure to comply. The Board shall be entitled to an award of reasonable attorneys' fees and costs in any action in which it is a prevailing party.

C. Any person who violates or causes or permits to be violated a provision of this article, or a regulation, administrative or judicial order, or term or condition of approval issued under this article, shall be subject to a civil penalty for each such violation as follows:

1. For failing to obtain approval of an oil discharge contingency plan as required by § 62.1-44.34:15, not

less than $1,000 nor more than $50,000 for the initial violation, and $5,000 per day for each day of violation thereafter;

2. For failing to maintain evidence of financial responsibility as required by § 62.1-44.34:16, not less than $1,000 nor more than $100,000 for the initial violation, and $5,000 per day for each day of violation thereafter;

3. For discharging or causing or permitting a discharge of oil into or upon state waters, or owning or operating any facility, vessel or vehicle from which such discharge originates in violation of § 62.1-44.34:18, up to $100 per gallon of oil discharged;

4. For failing to cooperate in containment and cleanup of a discharge as required by § 62.1-44.34:18 or for failing to report a discharge as required by § 62.1-44.34:19, not less than $1,000 nor more than $50,000 for the initial violation, and $10,000 for each day of violation thereafter; and

5. For violating or causing or permitting to be violated any other provision of this article, or a regulation, administrative or judicial order, or term or condition of approval issued under this article, up to $32,500 for each violation. Each day of violation of each requirement shall constitute a separate offense.

D. Civil penalties may be assessed under this article either by a court in an action brought by the Board pursuant to this section, as specified in § 62.1-44.15, or with the consent of the person charged, in a special order issued by the Board. All penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Underground Petroleum Storage Tank Fund as established in § 62.1-44.34:11. In determining the amount of any penalty, consideration shall be given to the willfulness of the violation, any history of noncompliance, the actions of the person in reporting, containing and cleaning up any discharge or threat of discharge, the damage or injury to state waters or the impairment of their beneficial use, the cost of containment and cleanup, the nature and degree of injury to or interference with general health, welfare and property, and the available technology for preventing, containing, reducing, or eliminating the discharge.

E. Any person who knowingly violates, or causes or permits to be violated, a provision of this article, or a regulation, administrative or judicial order, or term or condition of approval issued under this article ~~shall be~~ *is* guilty of a misdemeanor punishable by confinement in jail for not more than ~~12 months~~ *364 days* and a fine of not more than $100,000, either or both. Any person who knowingly or willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by this article or by administrative or judicial order issued under this article ~~shall be~~ *is* guilty of a felony punishable by a term of imprisonment of not less than one nor more than three years and a fine of not more than $100,000, either or both. In the case of a discharge of oil into or upon state waters:

1. Any person who negligently discharges or negligently causes or permits such discharge ~~shall be~~ *is* guilty of a misdemeanor punishable by confinement in jail for not more than ~~12 months~~ *364 days* and a fine of not more than $50,000, either or both.

2. Any person who knowingly and willfully discharges or knowingly and willfully causes or permits such discharge ~~shall be~~ *is* guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than $100,000, either or both.

F. Each day of violation of each requirement shall constitute a separate offense. In the event the violation of this article follows a prior felony conviction under subdivision E 2 ~~of this section~~, such violation shall constitute a felony and shall be punishable by a term of imprisonment of not less than two years nor more than 10 years and a fine of not more than $200,000, either or both.

G. Upon conviction for a violation of any provision of this article, or a regulation, administrative or judicial order, or term or condition of approval issued under this article, a defendant who is not an individual shall be sentenced to pay a fine not exceeding the greater of:

1. $1 million; or

2. An amount that is three times the economic benefit, if any, realized by the defendant as a result of the offense.

H. Any tank vessel entering upon state waters which fails to provide evidence of financial responsibility required by § 62.1-44.34:16, and any vessel from which oil is discharged into or upon state waters, may be detained and held as security for payment to the Commonwealth of any damages or penalties assessed under this section. Such damages and penalties shall constitute a lien on the vessel and the lien shall secure all costs of containment and cleanup, damages, fines and penalties, as the case may be, for which the operator may be liable. The vessel shall be released upon posting of a bond with surety in the maximum amount of such damages or penalties.

§ 62.1-194.3. Obstructing tributaries of Big Sandy River; dumping refuse, etc., into Big Sandy River or its tributaries.

~~(a)~~ *A.* If any person place any dam or other obstruction in any tributary of Big Sandy River so as to prevent the free passage of timber, or any raft or boat, he shall be fined not less than $50 nor more than $500; and, upon conviction thereof, the court or judge of the county court shall order the dam or other obstruction to be removed at his expense.

~~(b)~~ *B.* It shall also be unlawful for any person to dump, place or put, or cause to be dumped, placed, or put into, upon the banks of or into the channels of Big Sandy River or any of its tributaries, any dirt, stone, coal,

slate, cinders, mine refuse, trees, timber, logs, garbage, or any other material or substance so as to in anywise narrow, fill or restrict or partially narrow, fill or restrict the channels of said streams or impede the natural flow of the waters of said river or any of its tributaries or dump, place or put, or cause to be dumped, placed or put any dirt, stone, coal, slate, cinders, mine refuse, trees, timber, logs, garbage, or any other material~~,~~ or substance where the same does by natural rainfall or flow of water become washed or otherwise carried into, upon the banks of, or into the channels of, such river or any of its tributaries so as to in anywise narrow, fill or restrict or partially narrow, fill or restrict the channels of any of said streams or impede the natural flow of the waters thereof. Any person who violates any provision of this law ~~shall be~~ *is* guilty of a misdemeanor and upon conviction *shall* be punished by a fine of not less than $100 nor more than $500 or by confinement in jail *for* not more than ~~twelve months~~ *364 days* or both such fine and imprisonment. Each day that any of said materials or substances so dumped, placed or put, or caused to be dumped, placed or put into or so allowed to be washed or otherwise so carried into, upon the banks of or into the channels of, said streams shall constitute a separate offense and be punished as such.

~~(c)~~ *C.* In addition to the foregoing penalties for violation of this law, the judge of the circuit court of the county wherein any such violation occurs, whether there be a criminal conviction therefor or not shall, upon a bill in equity, filed by the attorney for the Commonwealth of such county or by any person whose property is damaged or whose property is threatened with damage from any such violation, award an injunction enjoining any violation of this law by any person found by the court in such suit to have violated this law or causing the same to be violated, when made a party defendant to such suit.

~~(d)~~ *D.* This section shall not be construed to restrict the construction or reconstruction of highways, or the construction or reconstruction of the right-of-way of any company subject to the State Corporation Commission, or the maintenance thereof in either case, provided the channel thereafter continues to permit a flow of water in such stream at least as large as that prevailing theretofore, provided that if the channel above the point of such work be widened or deepened subsequently then such company may be required by the circuit court of the county on petition of any interested person to change its right-of-way where practicable so as to permit the increased flow of water.

§ 62.1-270. Penalties.

A. Any person who violates any provision of this chapter, or who fails, neglects, or refuses to comply with any order of the Board pertaining to ground water, or order of a court, issued as herein provided, shall be subject to a civil penalty not to exceed $25,000 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

Such civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury of the county, city, or town in which the violation occurred to be used for the purpose of abating environmental pollution therein in such manner as the court may, by order, direct, except that where the person in violation is such county, city, or town itself, or its agent, the court shall direct such penalty to be paid to the State Treasurer for deposit into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 of Title 10.1.

With the consent of any person in violation of this chapter, the Board may provide, in an order issued by the Board against the person, for the payment of civil charges. These charges shall be in lieu of the civil penalties referred to above. Such civil charges shall be deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund.

B. Any person willfully or negligently violating any provision of this chapter, any regulation or order of the Board pertaining to ground water, any condition of a ground water withdrawal permit, or any order of a court ~~shall be~~ *is* guilty of a misdemeanor punishable by confinement in jail for not more than ~~twelve months~~ *364 days* and a fine of not less than $2,500 nor more than $25,000, either or both. Any person who knowingly violates any provision of this chapter, any regulation or order of the Board pertaining to ground water, any condition of a ground water withdrawal permit, or any order of a court issued as herein provided, or who knowingly makes any false statement in any form required to be submitted under this chapter ~~shall be~~ *is* guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than ~~twelve~~ *12* months and a fine of not less than $5,000 nor more than $50,000 for each violation. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than $10,000. Each day of violation of each requirement shall constitute a separate offense.

C. Any person who knowingly violates any provision of this chapter, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than ~~fifteen~~ *15* years and a fine of not more than $250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of ~~one~~ *$1* million ~~dollars~~ or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

D. Criminal prosecution under this section shall be commenced within three years of discovery of the

offense, notwithstanding the limitations provided in any other statute.

2. That the Virginia Criminal Sentencing Commission (the Commission) shall revise all labels on sentencing guidelines worksheets and instructions in the Sentencing Guidelines Manual so that any conviction for an offense defined as a Class 1 misdemeanor or any other misdemeanor with a maximum penalty of 364 days of incarceration, as provided by the provisions of this act, shall be scored as if the maximum penalty were 12 months for the purposes of preparing and using the discretionary sentencing guidelines pursuant to § 19.2-298.01 of the Code of Virginia. The Commission shall not modify any scores assigned on such worksheets without following the process prescribed in § 17.1-806 of the Code of Virginia.