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SENATE BILL NO. 423

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 4.1-600, 4.1-604, 4.1-606, 4.1-610, 4.1-619, 4.1-1105.1, and 4.1-1602 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 a section numbered 4.1-629, by adding in Chapter 7 of Title 4.1 sections numbered 4.1-700 through 4.1-704, by adding in Chapter 10 of Title 4.1 sections numbered 4.1-1003 through 4.1-1007, by adding in Chapter 11 of Title 4.1 sections numbered 4.1-1104, 4.1-1106, and 4.1-1122, by adding in Chapter 12 of Title 4.1 sections numbered 4.1-1200, 4.1-1202, 4.1-1206, and 4.1-1207, by adding in Chapter 13 of Title 4.1 a section numbered 4.1-1307, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403, 4.1-1404, and 4.1-1405, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, relating to cannabis control; retail market; penalties.

Patron—Ebbin

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-600, 4.1-604, 4.1-606, 4.1-610, 4.1-619, 4.1-1105.1, and 4.1-1602 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 6 of Title 4.1 a section numbered 4.1-629, by adding in Chapter 7 of Title 4.1 sections numbered 4.1-700 through 4.1-704, by adding in Chapter 10 of Title 4.1 sections numbered 4.1-1003 through 4.1-1007, by adding in Chapter 11 of Title 4.1 sections numbered 4.1-1104, 4.1-1106, and 4.1-1122, by adding in Chapter 12 of Title 4.1 sections numbered 4.1-1200, 4.1-1202, 4.1-1206, and 4.1-1207, by adding in Chapter 13 of Title 4.1 a section numbered 4.1-1307, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403, 4.1-1404, and 4.1-1405, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108 as follows:

§ 4.1-600. Definitions.

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

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

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

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

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

"Canopy" means any area dedicated to live marijuana plant cultivation, including areas in which plants are grown, propagated, or maintained.

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

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

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

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

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

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

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

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not

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59 include cultivation or testing.

60 "Marijuana" means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or
61 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
62 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the
63 mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such
64 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus
65 *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered
66 pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that
67 is possessed by a person who holds a hemp producer license issued by the U.S. Department of
68 Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an
69 industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a
70 tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been
71 placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act
72 (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

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

76 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and
77 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other
78 marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana
79 plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession
80 of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation
81 facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to
82 sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating
83 marijuana at home for personal use.

84 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
85 marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

86 "Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label,
87 and package retail marijuana and retail marijuana products; to purchase or take possession of retail
88 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to
89 transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers,
90 retail marijuana stores, or other marijuana manufacturing facilities.

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

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

98 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test
99 marijuana, marijuana products, and other substances.

100 "Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of
101 retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a
102 marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to
103 transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana
104 plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail
105 marijuana store, or another marijuana wholesaler.

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

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

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

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

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

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

any part of a hotel or club other than a private guest room thereof.

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

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

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

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

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

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

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

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

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

The Board shall have the following powers and duties:

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

2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

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

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

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

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

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

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

9. Establish a Cannabis *Micro Business* ~~Equity and Diversity~~ Support Team, which shall (i) develop requirements for the creation and submission of ~~diversity, equity, and inclusion~~ *micro cannabis business accelerator* plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for ~~small, women-owned, and minority-owned businesses and veteran-owned~~ *micro* businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in ~~areas disproportionately impacted by marijuana prohibition and enforcement~~ *historically economically disadvantaged communities*; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in ~~areas disproportionately impacted by marijuana prohibition and enforcement~~ *historically economically disadvantaged communities* as necessary;

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

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

182 those communities;

183 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

184 13. Adopt, use, and alter at will a common seal;

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

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

191 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
192 experts, investment bankers, superintendents, managers, and such other employees and special agents as
193 may be necessary and fix their compensation to be payable from funds made available to the Authority.
194 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
195 (§ 2.2-500 et seq.) of Title 2.2;

196 17. Receive and accept from any federal or private agency, foundation, corporation, association, or
197 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
198 and accept from the Commonwealth or any state and any municipality, county, or other political
199 subdivision thereof or from any other source aid or contributions of either money, property, or other
200 things of value, to be held, used, and applied only for the purposes for which such grants and
201 contributions may be made. All federal moneys accepted under this section shall be accepted and
202 expended by the Authority upon such terms and conditions as are prescribed by the United States and as
203 are consistent with state law, and all state moneys accepted under this section shall be expended by the
204 Authority upon such terms and conditions as are prescribed by the Commonwealth;

205 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
206 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
207 its duties performed. The Board may delegate or assign any duty or task to be performed by the
208 Authority to any officer or employee of the Authority. The Board shall remain responsible for the
209 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where
210 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.
211 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such
212 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance
213 of the duties and tasks;

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

216 20. Develop policies and procedures generally applicable to the procurement of goods, services, and
217 construction, based upon competitive principles;

218 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of
219 Title 2.2;

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

230 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
231 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,
232 blending, and processing plants;

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

236 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
237 production of records, memoranda, papers, and other documents before the Board or any agent of the
238 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board
239 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take
240 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any
241 party aggrieved. The Board may enter into consent agreements and may request and accept from any
242 applicant, licensee, or permittee a consent agreement in lieu of proceedings on (i) objections to the
243 issuance of a license or permit or (ii) disciplinary action. Any such consent agreement (a) shall include

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

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

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

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

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

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

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

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

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

§ 4.1-606. Regulations of the Board.

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

B. The Board shall promulgate regulations that:

1. Govern the ~~outdoor~~ *cultivation and manufacture of retail marijuana by a marijuana cultivation facility licensee and retail marijuana products*, including (i) security requirements ~~related to include~~ lighting, physical security, and alarm requirements, ~~provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse~~ *alarms*, (ii) requirements for secure disposal of waste or unusable materials, and (iii) a prohibition on outdoor cultivation;

2. Establish ~~security~~ requirements for all marijuana establishments, including requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product preparation;

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

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

6. Establish *packaging requirements and* requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle. *Such provisions shall require that labels (i) be complete, accurate, easily discernable, and uniform among different products and brands; (ii) be accessible on the licensee's website; and (iii) include information regarding (a) the product name; (b) all active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives, flavorings, sweeteners, and carrier oils; (c) the total percentage and milligrams of tetrahydrocannabinol and cannabidiol included in the product and the number of milligrams of tetrahydrocannabinol and cannabidiol in each package and serving; (d) the amount of product that constitutes a single serving; (e) information regarding the product's purpose and detailed usage directions; (f) child and safety warnings in a conspicuous font; and (g) such other information required by the Board;*

305 7. Establish a maximum tetrahydrocannabinol level for *retail marijuana and* retail marijuana
306 products, which shall not exceed (i) ~~five~~ 10 milligrams per serving for edible marijuana products and
307 where practicable an equivalent amount for other marijuana products or (ii) ~~50~~ 100 milligrams per
308 package for edible marijuana products and where practicable an equivalent amount for other marijuana
309 products. ~~Such regulations may include other product and dispensing limitations on~~
310 ~~tetrahydrocannabinol;~~

311 8. Establish requirements for the form, content, and retention of all records and accounts by all
312 licensees, *including the manner and timeframe in which licensees shall make such records and accounts*
313 *available to the Board;*

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

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

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

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

326 13. Establish criteria by which to evaluate social equity *identify micro business* license applicants,
327 which shall be an applicant who has lived or been domiciled for at least 12 months in the
328 Commonwealth and is either (i) an applicant with *that has* at least 66 percent ownership by a person or
329 persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of
330 ~~§ 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana;~~ (ii) an
331 applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or
332 spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation
333 of ~~§ 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana;~~ (iii) an
334 applicant with at least 66 percent ownership by a person or persons who have (i) *have* resided for at
335 least three of the past five years in a jurisdiction that is determined by the Board after utilizing census
336 tract data made available by the United States Census Bureau to have been disproportionately policed
337 for marijuana crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who
338 have resided for at least three of the last five years in a jurisdiction determined by the Board after
339 utilizing census tract data made available by the United States Census Bureau to be economically
340 distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated
341 from a historically black *historically economically disadvantaged community;* (ii) *have attended for at*
342 *least five years a public elementary or secondary school located in a historically economically*
343 *disadvantaged community;* (iii) *have received a federal Pell Grant or attended for at least two years a*
344 *college or university located in the Commonwealth at which at least 30 percent of the students, on*
345 *average, are eligible for a federal Pell Grant; or (iv) is a veteran of the armed forces of the United*
346 *States;*

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

350 ~~15. Establish~~ For applicants that meet the criteria set forth in subdivision 13, establish standards and
351 requirements for (i) ~~any~~ a preference in the licensing process for qualified social equity applicants, (ii)
352 what percentage of application or license fees are waived for a qualified social equity applicant, and (iii)
353 a low-interest business loan program for qualified social equity applicants, and (iv) ~~a waiver of any~~
354 ~~requirements to show proof of funds or current possession and control of the proposed licensed premises~~
355 ~~at the time of application;~~

356 ~~16. 15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal~~
357 ~~cultivation of marijuana that promote personal and public safety, including child protection, and~~
358 ~~discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;~~

359 ~~17. 16. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail~~
360 ~~marijuana or retail marijuana products; not inconsistent with the provisions of this chapter, so. Such~~
361 ~~restrictions shall ensure that such advertising displaces the illicit market, includes health and safety~~
362 ~~warnings, and notifies the public of the location of marijuana establishments Such regulations shall be~~
363 ~~promulgated in accordance with § 4.1-1404;~~

364 ~~18. 17. Establish restrictions on (i) the number of licenses that a person may be granted to operate a~~
365 ~~marijuana establishment in the Commonwealth or in a single locality or region and (ii) license transfers.~~
366 ~~Such restrictions shall (a) prohibit persons that hold a license in more than one license category from~~

transferring any license to another person that holds a license in more than one license category and (b) ensure that all licensees have an equal and meaningful opportunity to participate in the market; and

19. Establish restrictions on 18. Notwithstanding subdivisions 17 and 30, allow pharmaceutical processors, cannabis dispensing facilities, micro businesses, and no more than five industrial hemp processors that have been to be granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its retail marijuana stores;

19. Establish requirements for routine inspections of all marijuana establishments, which shall occur no less than once per year;

20. Establish minimum equipment and resource requirements for marijuana establishments;

21. Establish processes to ensure the safe and secure dispensing of retail marijuana and retail marijuana products;

22. Establish processes to ensure the safe wholesale distribution and transfer of retail marijuana and retail marijuana products;

23. Establish requirements regarding the sale of devices by licensees for administration of retail marijuana and retail marijuana products;

24. Establish a process for certain licensees to acquire from a registered industrial hemp dealer or processor industrial hemp extracts grown and processed in the Commonwealth in compliance with state and federal law and a process for licensees to formulate such extracts into retail marijuana products;

25. Establish (i) the maximum amount of retail marijuana or retail marijuana products that a licensee may sell to a single purchaser during a period of time established by the Board and (ii) a retail sales monitoring program to ensure compliance with Board requirements regarding sales to a single purchaser;

26. Ensure that all marijuana establishments are in compliance with applicable zoning and land use restrictions and that no retail marijuana store is located within one-quarter of a mile of another retail marijuana store;

C. The Board may promulgate regulations that:

1. 27. Limit the number of licenses issued by type or class to operate a marijuana establishment in accordance with § 4.1-700; however, the number of licenses issued shall not exceed the following limits:

a. Retail marijuana stores, 400;

b. Marijuana wholesalers, 25;

c. Marijuana manufacturing facilities, 60; and

d. Marijuana cultivation facilities, 450.

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

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

3. 29. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square feet; unless the retail marijuana store is located on the premises of a pharmaceutical processor or cannabis dispensing facility that holds a valid permit issued by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) prior to July 1, 2024, and the retail portion of such premises has not been expanded after such date;

4. 30. Allow certain persons to be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to participate in the market;

31. Allow micro business licensees to (i) enter into cooperative agreements with other micro business licensees and (ii) lease space and equipment and cultivate, manufacture, and sell retail marijuana and retail marijuana products on the premises of another licensee;

32. Limit the canopy of marijuana cultivation facilities to 150,000 square feet. However, (i) marijuana cultivation facilities that are located on the premises of a pharmaceutical processor that holds a valid permit issued by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) prior to July 1, 2024, shall be limited to a canopy of 200,000 square feet and (ii) marijuana cultivation facilities that are located on the premises of a micro business licensee shall be limited to a canopy of 10,000 square

428 feet; and

429 33. Limit (i) micro businesses that hold a marijuana manufacturing facility license to manufacturing
 430 a maximum of 1,000 pounds of retail marijuana or retail marijuana products per year and (ii) micro
 431 businesses that hold a marijuana wholesale license to wholesaling a maximum of \$500,000 of retail
 432 marijuana or retail marijuana products per year.

433 D. C. Board regulations shall be (i) uniform in their application, ~~except those relating to hours of~~
 434 ~~sale for licensees~~ (ii) commercially reasonable, and (iii) consistent with generally accepted cannabis
 435 industry standards in states with regulated cannabis markets.

436 E. D. Courts shall take judicial notice of Board regulations.

437 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
 438 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
 439 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of
 440 the members of the Cannabis Public Health Advisory Council.

441 G. E. With regard to regulations governing licensees that have been issued a permit by the Board of
 442 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2
 443 (§ 54.1-3442.5 et seq.) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.), the Board shall make
 444 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board
 445 of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and
 446 cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated
 447 pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been
 448 found to be in compliance with regulations promulgated by the Board of Pharmacy pursuant to Chapter
 449 16 that mirror or are more extensive in scope than similar regulations promulgated pursuant to this other
 450 provisions of this subtitle.

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

452 **§ 4.1-610. Financial interests of Board, employees, and family members prohibited.**

453 No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise
 454 have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or
 455 in any entity that has submitted an application for a license under Chapter 8 (~~§ 4.1-800 et seq.~~). No
 456 Board member and no spouse or immediate family member of a Board member shall make any
 457 contribution to a candidate for office or officeholder at the local or state level or cause such a
 458 contribution to be made on his behalf.

459 **§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
 460 **communications as alternative to regular mail; limitation.**

461 A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and
 462 such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or
 463 notice that is sent by the Board may be sent by regular mail.

464 B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to
 465 send any mail, notice, or other official communication by regular mail to ~~persons licensed under Chapter~~
 466 ~~8 (§ 4.1-800 et seq.)~~ a licensee, upon the request of a licensee, the Board may instead send such mail,
 467 notice, or official communication by email, text message, or other electronic means to the email address,
 468 telephone number, or other contact information provided to the Board by the licensee, provided that the
 469 Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery
 470 or a certificate of service prepared by the Board confirming the electronic delivery.

471 C. No notice required by ~~§ 4.1-903~~ to a licensee of a hearing that may result in the suspension or
 472 revocation of his license or the imposition of a civil penalty shall be sent by the Board by email, text
 473 message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license
 474 or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

475 **§ 4.1-629. Local referendum on prohibition of marijuana establishments.**

476 A. The governing body of a locality may, by resolution, petition the circuit court for the locality for
 477 a referendum on the question of whether marijuana establishments shall be prohibited in the locality.

478 Upon the filing of a petition, the circuit court shall order the election officials to conduct a
 479 referendum on the question on the date fixed in the order. The date set by the order shall comply with
 480 the provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the
 481 order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of
 482 general circulation in the locality once a week for three consecutive weeks prior to the referendum.

483 The question on the ballot shall be:

484 "Shall the operation of marijuana establishments be prohibited in _____ (name of county, city,
 485 or town)?"

486 The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the
 487 certifications required by such section, the secretary of the local electoral board shall certify the results
 488 of the referendum to the Board and to the governing body of the locality.

489 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of

whether marijuana establishments shall be prohibited in the locality, marijuana establishments shall be permitted to operate or continue operations within the locality subject to the provisions of this subtitle and Board regulations and no subsequent referendum may be held pursuant to this section within such locality.

If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether marijuana establishments shall be prohibited in the locality, marijuana establishments shall be prohibited in the locality effective January 1 of the year immediately following the referendum. A referendum on the same question may be held subsequent to a vote to prohibit marijuana establishments but not earlier than the fourth November following the date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of this section.

C. When any referendum is held pursuant to this section in a town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county. When any referendum is held pursuant to this section in a county, any town located within such county shall be treated as being separate and apart from such county.

D. The legality of any referendum held pursuant to this section shall be subject to the inquiry, determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the judgment of the court entered of record shall be a final determination of the legality of the referendum.

E. Referendums held pursuant to this section shall not apply to or prohibit the licensure and operation of a marijuana establishment by and on the premises of a pharmaceutical processor or cannabis dispensing facility that holds a valid permit issued by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) prior to July 1, 2024.

§ 4.1-700. License requirement; background checks; expiration.

A. The Board shall grant the following licenses, provided that a sufficient number of applications are received and that marijuana establishments are permitted in a sufficient number of localities:

1. Marijuana cultivation facility licenses, at least five in each state senatorial district, three of which shall be issued to micro businesses;

2. Marijuana manufacturing facility licenses, at least five in each state senatorial district, three of which shall be issued to micro businesses;

3. Marijuana wholesale licenses, at least five in each state senatorial district, three of which shall be issued to micro businesses; and

4. Retail marijuana store licenses, at least eight in each state senatorial district, three of which shall be issued to micro businesses.

In determining the number of licenses issued pursuant to this subsection, the Board shall not consider any license granted to a pharmaceutical processor or cannabis dispensing facility that holds a valid permit issued by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) prior to July 1, 2024.

B. No person shall operate a marijuana establishment or exercise the privileges of any license set forth in subsection A without first obtaining a license from the Board.

C. Applications for a license shall be submitted on a form provided by the Board. The Board shall require that all applications include the name and signature of the applicant's compliance officer. The Board shall establish an application fee and any other requirements for such applications.

D. License applicants, including all material owners of any applicant, shall submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history record search to the Board or its designee, which shall be a governmental entity.

E. A license shall not be issued to any person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last three years.

F. Each license shall expire annually on a date determined by the Board.

G. All licenses shall be displayed in a conspicuous place on the licensed premises.

§ 4.1-701. Exemptions from licensure.

The licensure requirements set forth in § 4.1-700 shall not apply to (i) a pharmaceutical processor or cannabis dispensing facility that holds a valid permit issued by the Board prior to February 1, 2024, pursuant to Chapter 16 (§ 4.1-1600 et seq.) and is operating in accordance with the provisions of such chapter; (ii) a dealer, grower, or processor of industrial hemp that registered with the Commissioner of Agriculture and Consumer Services prior to January 1, 2024, pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is operating in accordance with the provisions of such chapter; (iii) a

manufacturer of industrial hemp extract or food containing an industrial hemp extract operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent such persons from obtaining a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises of a pharmaceutical processing facility or a cannabis dispensing facility in accordance with Chapter 16 or an industrial hemp processing facility in accordance with Chapter 41.1 of Title 3.2.

§ 4.1-702. Dispensing requirements and limitations; records.

A. A licensee shall dispense retail marijuana and retail marijuana products only in person and to persons to whom retail marijuana and retail marijuana products may be lawfully sold.

B. Prior to the dispensing of retail marijuana or retail marijuana products, the licensee shall require the purchaser to present bona fide evidence of legal age indicating that the purchaser is 21 years of age or older.

C. Each licensee shall maintain, on site or remotely by electronic means, for two years a paper or electronic copy of all transactions.

D. A licensee may only sell and dispense retail marijuana and retail marijuana products that have been registered by the Board.

§ 4.1-703. Employees; background checks; qualifications.

A. Each licensee shall maintain criminal history record information for all employees and agents of the licensee in accordance with Board regulations. Criminal history record checks of employees and agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

B. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last three years shall be employed by or act as an agent of a licensee.

C. Each licensee shall adopt policies for pre-employment drug screenings and regular, ongoing random drug screenings of all employees.

D. In addition to other employees authorized by the Board, a licensee may employ individuals who have less than two years of relevant experience to (i) perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a Board-recognized certification or who has at least two years of experience cultivating plants and (ii) perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

§ 4.1-704. Compliance officers.

A. Every licensee that is authorized to cultivate, manufacture, or dispense retail marijuana or retail marijuana products shall designate one or more compliance officers. Compliance officers shall (i) personally supervise the licensee's cultivation, manufacturing, and dispensing areas, as applicable; (ii) ensure that security measures are adequate to protect the retail marijuana or retail marijuana products from diversion at all times; and (iii) determine the number of employees that can be safely and competently supervised at one time. However, no compliance officer shall supervise more than six persons performing the dispensing duties at one time.

B. The Board shall establish criteria for determining whether a person is qualified and fit to serve as a compliance officer.

C. The Board shall direct all communications related to enforcement of requirements related to the cultivation, manufacturing, and dispensing of retail marijuana and retail marijuana products by the licensee to the licensee's compliance officer.

§ 4.1-1003. Marijuana tax; exceptions.

A. A tax of six percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail marijuana products. The tax shall be in addition to any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local law.

B. The tax shall not apply to any sale:

1. From a marijuana establishment to another marijuana establishment;

2. Of a cannabis product for treatment under Chapter 16 (§ 4.1-1600 et seq.);

3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or

4. Of a hemp product or regulated hemp product.

C. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1004. Optional local marijuana tax.

A. Any locality may by ordinance levy a six percent tax on any sale taxable under § 4.1-1003. The tax shall be in addition to any local sales tax imposed under the Virginia Retail Sales and Use Tax Act

(§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under § 4.1-1003.

B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section shall not apply within the limits of the town.

C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on the first day of the second month following its enactment.

E. Any tax levied under this section shall be administered and collected by the Authority in the same manner as provided for the tax imposed under § 4.1-1003.

F. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

G. All localities that levy a tax pursuant to this section shall use at least 50 percent of the revenues generated from such tax for one or more of the following: (i) school construction or modernization; (ii) salary increases for teachers; (iii) supporting persons and families in historically economically disadvantaged communities; (iv) providing scholarship opportunities and educational and vocational resources for persons who (a) are or were in foster care, (b) reside in a historically economically disadvantaged community, or (c) have been adversely impacted by substance use; (v) awarding grants to support workforce development initiatives, mentoring programs, job training and placement services, apprenticeships, or reentry programs that serve persons in historically economically disadvantaged communities; or (vi) contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01.

§ 4.1-1005. Tax returns and payments; commissions; interest.

A. For any sale taxable under §§ 4.1-1003 or 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1007.

C. The Authority may accept payment by any commercially acceptable means, including cash, checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments made under this subsection. The Authority may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

E. If any person liable for tax under §§ 4.1-1003 or 4.1-1004 sells out his business or stock of goods or quits the business, such person shall make a final return and payment within 15 days after the date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any former owner.

F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004, interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §§ 4.1-1003 or 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

§ 4.1-1006. Bonds.

The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the taxes levied under §§ 4.1-1003 or 4.1-1004, require any person subject to such tax to file a bond,

with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties; appeals; penalty.

A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Authority shall not examine any person's records beyond the three-year period of limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

B. If any person fails to file a return as required by this chapter, or files a return that is false or fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days' notice requiring such person to provide any records as it may require relating to the business of such person for the taxable period. The Authority may require such person or the agents and employees of such person to give testimony or to answer interrogatories under oath administered by the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any person fails to file a required return, refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority may make an estimated assessment based upon the information available to it and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of business is located or in which the person resides. If the person has no place of business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under subsection D.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under subsection D, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release of the lien within seven days after such determination is made.

D. Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under this section, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to appeal and review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An

appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age; penalties.

A. No person shall sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

D. Any person who sells marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor. The Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.

E. No person shall be convicted of both subsections A and D for the same sale.

§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; treatment and education programs and services.

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another

797 person in order to establish a false identification or false age for himself to consume, purchase, or
798 attempt to consume or purchase retail marijuana or retail marijuana products. Any person convicted of
799 a violation of this subsection is guilty of a Class 1 misdemeanor.

800 F. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
801 Assessment and Treatment Fund established pursuant to § 18.2-251.02.

802 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may**
803 **not be sold; forfeiture; penalties.**

804 A. Any person who purchases retail marijuana or retail marijuana products for another person and
805 at the time of such purchase knows or has reason to believe that the person for whom the retail
806 marijuana or retail marijuana products were purchased was intoxicated is guilty of a Class 1
807 misdemeanor.

808 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
809 marijuana or retail marijuana products to another person when he knows or has reason to know that
810 such person is younger than 21 years of age, except by any federal, state, or local law-enforcement
811 officer when possession of marijuana or marijuana products is necessary in the performance of his
812 duties, is guilty of a Class 1 misdemeanor.

813 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
814 contraband and forfeited to the Commonwealth.

815 **§ 4.1-1122. Criminal immunity.**

816 No person shall be subject to arrest or prosecution for the purchase, possession, cultivation,
817 manufacture, sale, or distribution of marijuana under Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1
818 et seq.) of Chapter 7 of Title 18.2 if such person is engaging in activities permitted under this subtitle
819 and Board regulations.

820 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

821 A. No licensee or any agent or employee of such licensee shall:

822 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of
823 a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture,
824 transport, sell, or test;

825 2. Sell retail marijuana or retail marijuana products to any person other than a person to whom
826 such license or this subtitle authorizes him to sell;

827 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products in any
828 place or manner other than those authorized by such license or this subtitle.

829 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
830 when forbidden by this subtitle;

831 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail
832 marijuana or retail marijuana products other than that which he is authorized to cultivate, manufacture,
833 transport, sell, or test by such license or by this subtitle;

834 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was
835 purchased by him;

836 7. Use or consume marijuana or marijuana products on the licensed premises; or

837 8. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at
838 a retail marijuana store.

839 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

840 **§ 4.1-1202. Sale of or purchase for resale retail marijuana etc., from a person without a license**
841 **prohibited; penalty.**

842 A. No retail marijuana store licensee shall purchase for resale or sell any retail marijuana, retail
843 marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than
844 a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler licensee.

845 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

846 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or**
847 **to allow examination and inspection; penalty.**

848 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii)
849 deliver, keep, and preserve such records, invoices, and accounts as are required by Board regulation; or
850 (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in
851 accordance with Board regulations. Any person convicted of a violation of this subsection is guilty of a
852 Class 1 misdemeanor.

853 B. After reasonable notice to a licensee that failed to file a tax return or pay taxes due, the Authority
854 may suspend or revoke any license of such licensee that was issued by the Authority.

855 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

856 A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable
857 taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive,
858 transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has

reason to know such tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. Any person that fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004 is subject to a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five days after the Authority gives it notice that such check was returned unpaid, the person that tendered the check is guilty of a violation of § 18.2-182.1.

E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

§ 4.1-1307. Punishment for violations of subtitle or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-1403. Testing; registered products.

A. The Board shall require licensees, prior to selling or offering for sale any retail marijuana or retail marijuana products, to provide a sample from each batch for testing by an independent laboratory. In the case of retail marijuana products, such testing shall be conducted after any manufacturing of the product is complete.

B. A valid sample size for testing shall be determined by the testing laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. In the case of retail marijuana products, no sample shall constitute less than 0.5 percent of the individual units to be dispensed from each homogenized batch. In the case of retail marijuana, the Board may limit testing to the following: cannabidiol, tetrahydrocannabinol, terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants.

C. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. Licensees may remediate retail marijuana or retail marijuana products that fail any quality testing standard except pesticides. Following remediation, all remediated retail marijuana or retail marijuana products shall be subject to laboratory testing, which shall be no more stringent than the initial testing conducted prior to remediation. Remediated retail marijuana or retail marijuana products that pass such quality testing may be packaged and labeled. If a batch of retail marijuana fails a retest after remediation, it may be processed into a retail marijuana product.

D. The Board may require stability testing of retail marijuana and retail marijuana products. However, stability testing shall not be required for any retail marijuana or retail marijuana products that have an expiration date of no more than six months from the date of registration approval. Stability testing of retail marijuana or retail marijuana products with an expiration date that is longer than six months shall be limited to microbial testing on a pass/fail basis and potency testing with a 15 percent deviation allowance. The concentration of tetrahydrocannabinol in any retail marijuana or retail marijuana product offered for sale may be up to 15 percent greater or less than the level of total tetrahydrocannabinol listed in the approved retail marijuana or retail marijuana product registration.

Licensees shall ensure that such tetrahydrocannabinol concentration is within such range. Licensees shall establish a stability testing schedule for retail marijuana and retail marijuana products that have an expiration date longer than six months in accordance with Board regulations. No retail marijuana or retail marijuana product shall have an expiration date longer than six months from the date of its registration approval unless supported by stability testing.

E. Any laboratory that tests samples for a licensee shall (i) be registered with and approved by the Board, (ii) be located in the Commonwealth, (iii) have no ownership interest in a licensed marijuana establishment, (iv) hold a controlled substances registration certificate pursuant to § 54.1-3423, and (v) comply with quality and other standards established by Board regulations.

§ 4.1-1404. Packaging and labeling; corrections; records.

A. Licensees shall comply with all packaging and labeling requirements set forth in this subtitle and Board regulations.

B. No retail marijuana or retail marijuana product shall be packaged in a container or wrapper that bears or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such retail marijuana or retail marijuana product.

C. Licensees may correct typographical errors made on retail marijuana or retail marijuana product labels and any documents generated as the result of a wholesale transaction.

§ 4.1-1405. Product registration; approval, deviation, and modification.

A. Each licensee shall register with the Board all retail marijuana or retail marijuana products it cultivates, manufactures, or otherwise produces. Applications for registration shall be submitted to the Board on a form prescribed by the Board.

B. An application for registration shall include:

1. The total tetrahydrocannabinol and total cannabidiol, based on laboratory testing results for the retail marijuana or retail marijuana product formulation;
2. A product name;
3. A proposed product package; and
4. A proposed product label, which shall not be required to contain an expiration date at the time of application.

C. The Board shall register all retail marijuana and retail marijuana products that meet testing, labeling, and packaging standards after an application for registration is submitted. If the retail marijuana or retail marijuana product fails to meet such standards or the application was deficient, the Board shall notify the applicant of the specific reasons for such failure or deficiency.

D. The following deviations from an approved retail marijuana or retail marijuana product registration shall be permitted without any requirement for a new registration or notice to the Board:

1. A deviation in the concentration of total tetrahydrocannabinol or total cannabidiol of up to 15 percent greater than or less than the concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved registration; however, for a retail marijuana product with five milligrams or less of total tetrahydrocannabinol or total cannabidiol per dose, the total tetrahydrocannabinol or total cannabidiol concentration shall be within 0.5 milligrams of the single-serving total tetrahydrocannabinol or total cannabidiol concentrations approved for that retail marijuana product;

2. A variation in packaging, provided that the packaging is substantially similar to the approved packaging and otherwise complies with applicable packaging requirements;

3. A deviation in labeling that reflects allowable deviations in total tetrahydrocannabinol or total cannabidiol or that makes a minor text, font, design, or similar modification, provided that the labeling is substantially similar to the approved labeling and otherwise complies with applicable labeling requirements; and

4. Any other insignificant changes.

E. A licensee may submit a request to modify an existing registration in the event of a deviation that is not set forth in subsection D. Upon receipt, the Board shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or require the licensee to provide additional information.

§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of

permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. *No pharmaceutical processor, or any general partner, any member, any limited partner of 10 percent or more with voting rights, any officer, director, or shareholder owning 10 percent or more of its capital stock, or any member-manager or member owning 10 percent or more of the membership interest shall hold more than one permit.* Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol, except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste, and (c) a process for registering cannabis products.

D. The Board shall require pharmaceutical processors, after processing and before dispensing any cannabis products, to make a sample available from each batch of cannabis product for testing by an independent laboratory that is located in Commonwealth and meets Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing which shall not be more stringent than initial testing prior to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an expiration date longer than six months from the date of the cannabis product registration approval unless supported by stability testing.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board of Pharmacy in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility unless all cannabis products are contained in a vault or other similar

container to which only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis and cannabis products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the pharmaceutical processor may cultivate cannabis plants. Each cannabis dispensing facility and the additional cultivation location shall be located within the same health service area as the pharmaceutical processor.

K. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor industrial hemp extracts that (i) are grown and processed in Virginia, and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract" in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily discernable, and uniform among different products and brands. Pharmaceutical processors shall affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the pharmaceutical processor's website, that includes:

1. The product name;
2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives,

flavorings, sweeteners, and carrier oils;

3. The total percentage and milligrams of tetrahydrocannabinol and cannabidiol included in the product and the number of milligrams of tetrahydrocannabinol and cannabidiol in each serving;

4. The amount of product that constitutes a single serving and the amount recommended for use by the practitioner or dispensing pharmacist;

5. Information regarding the product's purpose and detailed usage directions;

6. Child and safety warnings in a conspicuous font; and

7. Such other information required by the Board.

P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no tetrahydrocannabinol.

Q. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

§ 6.2-108. Financial services for licensed marijuana establishments.

A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided in § 4.1-600.

B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the officers, directors, and employees of such bank or credit union, shall not be held liable pursuant to any state law or regulation solely for providing such a financial service or for further investing any income derived from such a financial service.

C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed marijuana establishment.

2. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall promulgate regulations to implement the provisions of this act by November 1, 2024. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the Board's initial adoption of regulations to implement the provisions of this act. However, prior to adopting any regulation, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for the submission of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant to this enactment. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this act.

3. That, except as otherwise provided in the fifth and sixth enactments of this act, the Board of Directors of the Virginia Cannabis Control Authority shall not issue any license pursuant to the provisions of this act prior to July 1, 2025.

4. That the Board of Directors of the Virginia Cannabis Control Authority shall create a streamlined process for persons holding a regulated hemp product retail facility registration issued by the Virginia Department of Agriculture and Consumer Services pursuant to Article 4 (§ 3.2-4122 et seq.) of Chapter 41.1 of Title 3.2 of the Code of Virginia prior to January 1, 2024, to apply for a retail marijuana store license. Such process shall ensure that retail marijuana store license applications submitted by such persons are given expedited consideration.

5. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority (the Authority) shall create a streamlined selection process for no more than five industrial hemp processors to apply for and, upon satisfaction of applicable eligibility requirements, be granted a retail marijuana store license, marijuana manufacturing facility license, marijuana cultivation facility license, and marijuana wholesale license on or before January 1, 2025, and to begin

operations as soon as the Authority is able to regulate such operations. Such selection process may be competitive and shall ensure that all applicants comply with all regulations and standards governing pharmaceutical processors and cannabis dispensing facilities set forth in the sixth enactment of this act and all applicable provisions of Subtitle II (§ 4.1-600 et seq.) of Title 4.1 of the Code of Virginia. No industrial hemp processor shall be granted a license pursuant to this enactment unless such processor (i) was registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia prior to January 1, 2020; (ii) satisfied all background check and other security clearance requirements of the Department of Agriculture and Consumer Services prior to December 31, 2022; (iii) has at least \$1 million in liquid or non-liquid assets; (iv) has submitted planting and propagation reports for 5,000 square feet or more of hemp cultivation or processed an equivalent amount of hemp as determined by the Board; and (v) has paid a \$500,000 transitional sales fee to the Authority.

6. § 1. That, notwithstanding any other provision of law, the Board of Directors (the Board) of the Virginia Cannabis Control Authority (the Authority) shall allow, on and after July 1, 2024, any pharmaceutical processor or cannabis dispensing facility that holds a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia to sell cannabis products, as defined in § 4.1-1600 of the Code of Virginia, to persons who are 21 years of age or older without the need for a written certification. All sales and related activities conducted pursuant to this enactment shall be subject to regulations adopted by the Board pursuant to Chapter 16 of Title 4.1 of the Code of Virginia, subject to the following exceptions and requirements:

1. Any regulation adopted by the Board that was located in Part II (18VAC110-60-30 et seq.) of 18VAC110-60 or 18VAC110-60-310 of the Virginia Administrative Code prior to January 1, 2024, shall not apply;

2. Pharmaceutical processors and cannabis dispensing facilities engaging in sales pursuant to the provisions of this enactment shall:

a. Sell cannabis products only in opaque, child-resistant, tamper-evident, and resealable packaging;

b. Report quarterly to the Board data regarding all sales conducted pursuant to this enactment, including information regarding violations, errors, and omissions;

c. Be permitted to cultivate the number of cannabis plants, as determined by the pharmaceutical processor, necessary to serve the demand for sales created by this enactment;

d. Dedicate a sufficient number of registers at each facility to registered patient sales and maintain sufficient inventory of cannabis products to satisfy the demands of such patients;

e. Submit to the Board and, upon approval by the Board, comply with a micro business accelerator plan describing how the pharmaceutical processor will, in its health service area, mentor six independent cannabis micro businesses for no less than 12 months and up to 18 months. Such plan shall, with the goal of such micro businesses beginning operations as soon as practicable after January 1, 2025, (i) give preference to businesses that meet the qualifications set forth in subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act, and (ii) detail efforts the pharmaceutical processor will make to provide expertise, education, and training to the micro businesses in general business practices, financial management, regulatory compliance, administrative and business law, manufacturing, and agriculture. Notwithstanding subsection B of § 4.1-629 of the Code of Virginia, as created by this act, the Board may issue one retail marijuana store license and one marijuana cultivation facility license to each such micro business, as well as 30 additional micro businesses that meet the qualifications set forth in subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act, on or after January 1, 2025, provided that (a) the proposed location of the retail marijuana store and marijuana cultivation facility is in the same health service area of the pharmaceutical processor that supports the micro business and (b) the 60 additional licenses are allocated evenly among all health service areas; and

f. Prior to engaging in sales pursuant to this enactment, pay a one-time \$1 million fee to the Department of Taxation less any amounts, to be verified by the Board, that the pharmaceutical processor has allocated as unrestricted grants to participants in its micro business accelerator plan;

3. Pharmaceutical processors and cannabis dispensing facilities engaging in sales pursuant to the provisions of this enactment shall not:

a. Deliver cannabis products or sell cannabis products at any location other than the pharmaceutical processor or cannabis dispensing facilities for which the pharmaceutical processor or cannabis dispensing facility holds a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia; however, the provisions of this subdivision shall not prohibit a pharmaceutical processor or cannabis dispensing facility from delivering a wholesale order to a

person licensed pursuant to the provisions of this act;

b. Advertise cannabis products to persons younger than 21 years of age;

c. Sell to a person in a single transaction more than (i) one ounce of botanical cannabis products, (ii) five grams of cannabis concentrate products, or (iii) a quantity of infused cannabis products that contains more than 500 milligrams of tetrahydrocannabinol;

d. Sell any nonbotanical cannabis product with an individual unit dose containing more than 10 milligrams of tetrahydrocannabinol;

e. Be required to comply with any Board regulation, requirement, or restriction not referenced in this enactment or any amendments or additions to the regulations referenced in this enactment unless such regulation, requirement, restriction, amendment, or addition is adopted by the General Assembly; or

f. Be subject to administrative action, liability, or other penalty based on the acts or omissions of any small cannabis business; and

4. Persons without a written certificate shall be permitted to access pharmaceutical processor and dispensing facilities for the purpose of purchasing cannabis products in accordance with the provisions of this enactment.

§ 2. That the Board may suspend the privileges of a pharmaceutical processor or cannabis dispensing facility to engage in sales under this enactment for substantial and repeated violations of the provisions of this enactment.

§ 3. That a tax of 12 percent shall be levied on the sale of cannabis products by pharmaceutical processors pursuant to this enactment, which shall be in lieu of any tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 of the Code of Virginia or any other state or local law. Pharmaceutical processors shall remit such tax to the Department of Taxation. The Department of Taxation shall deposit tax revenues from the 12 percent excise tax, as well as the fees received from pharmaceutical processors pursuant to § 1 of this enactment, into the account of the Authority. Such funds shall be (i) allocated to a community development institution fund designated by the Board for the purpose of supporting new businesses and creating jobs in historically economically disadvantaged communities as defined in § 4.1-600 of the Code of Virginia, as amended by this act, or (ii) used in accordance with the standards and requirements established in subdivisions B 13 and 14 of § 4.1-606 of the Code of Virginia, as amended by this act.

§ 4. That the Board and the Department of Taxation may assess and collect fees from each pharmaceutical processor that sells cannabis products pursuant to this enactment in an amount sufficient to recover the costs associated with the implementation of the provisions of this enactment.

§ 5. That the provisions of this enactment shall not apply to or otherwise affect the sale of cannabis products to patients with written certifications by pharmaceutical processors pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia.

§ 6. That no agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be subject to any disciplinary action by a professional licensing board for (i) possessing or manufacturing cannabis for the purposes of producing cannabis products in accordance with the provisions of this enactment or (ii) possessing, manufacturing, or distributing cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this enactment.

§ 7. That the provisions of this enactment shall expire when pharmaceutical processors and cannabis dispensing facilities engaging in the cultivation, manufacture, or sale of cannabis products pursuant to the provisions of this enactment are authorized by the Board to apply for and be granted licenses to cultivate, manufacture, wholesale, and sell at retail to consumers 21 years of age or older retail marijuana and retail marijuana products at the facilities for which the pharmaceutical processor holds a permit as set forth in this enactment.

7. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall convene a work group to determine whether (i) customer transaction limits should be revised; (ii) additional labeling and advertising restrictions are necessary; (iii) product literature should be provided to consumers at the point of sale; (iv) customer educational initiatives should be undertaken; (v) licensees should publicly report sales figures; and (vi) sales restrictions used in other states should be adopted in the Commonwealth. The Board shall report the findings and recommendations of the work group to the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by October 1, 2025.

8. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall convene a work group to determine whether (i) the license caps in § 4.1-700 of the Code of Virginia, as created by this act, should be amended and (ii) additional license designations should

1289 be created. The Board shall report the findings and recommendations of the work group to the
1290 Chairmen of the Senate Committee on Rehabilitation and Social Services and the House
1291 Committee on General Laws by October 1, 2026.

1292 9. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this
1293 act, on the question of whether the operation of retail marijuana stores shall be prohibited in a
1294 particular locality shall be held and results certified by December 31, 2024. A referendum on such
1295 question shall not be permitted in a locality after January 1, 2025, unless such referendum follows
1296 a referendum held prior to December 31, 2024, and any subsequent referendum, in which a
1297 majority of the qualified voters voting in such referendum voted "Yes" to prohibit the operation
1298 of retail marijuana stores.

1299 10. That the provisions of subsection B of § 4.1-1602 of the Code of Virginia, as amended by this
1300 act, that prohibit pharmaceutical processors and certain other persons from holding more than
1301 one permit shall not prohibit a pharmaceutical processor or any other such person from holding
1302 more than one permit if the processor or person held more than one permit prior to July 1, 2024;
1303 however, the provisions of this enactment shall not be construed to allow any such pharmaceutical
1304 processor or person to acquire additional permits on or after July 1, 2024.

1305 11. That the provisions of this act may result in a net increase in periods of imprisonment or
1306 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
1307 necessary appropriation cannot be determined for periods of imprisonment in state adult
1308 correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I,
1309 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
1310 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
1311 appropriation cannot be determined for periods of commitment to the custody of the Department
1312 of Juvenile Justice.