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HOUSE BILL NO. 1269

Offered January 11, 2006

Prefiled January 11, 2006

A *BILL to amend and reenact §§ 2.2-3124, 3.1-336.10, 3.1-413, 4.1-336, 6.1-18, 6.1-195.82, 18.2-270, 18.2-340, 18.2-515, 18.2-516, 19.2-368.20, 19.2-386.1 through 19.2-386.5, 19.2-386.12, 19.2-386.14, 19.2-386.16, 19.2-386.18, 19.2-386.19, 19.2-386.26, 19.2-386.29, 19.2-386.30, 19.2-386.31, 22.1-142, 28.2-821, 28.2-900, 28.2-902, 29.1-521.2, 29.1-523.1, 29.1-536, 29.1-549, 30-126, 46.2-1605, and 58.1-2274 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 19.2-386.1:1, 19.2-386.2:1, 19.2-386.32 through 19.2-386.48; and to repeal §§ 4.1-340 through 4.1-347, Chapter 22 (§ 19.2-369 et seq.) of Title 19.2, and §§ 28.2-319, 28.2-407, 29.1-407, 29.1-524, 46.2-867, and 46.2-1087 of the Code of Virginia, relating to forfeiture.*

Patron—Janis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3124, 3.1-336.10, 3.1-413, 4.1-336, 6.1-18, 6.1-195.82, 18.2-270, 18.2-340, 18.2-515, 18.2-516, 19.2-368.20, 19.2-386.1 through 19.2-386.5, 19.2-386.12, 19.2-386.14, 19.2-386.16, 19.2-386.18, 19.2-386.19, 19.2-386.26, 19.2-386.29, 19.2-386.30, 19.2-386.31, 22.1-142, 28.2-821, 28.2-900, 28.2-902, 29.1-521.2, 29.1-523.1, 29.1-536, 29.1-549, 30-126, 46.2-1605, and 58.1-2274 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 19.2-386.1:1, 19.2-386.2:1, 19.2-386.32 through 19.2-386.48 as follows:

§ 2.2-3124. Civil penalty for violation of this chapter.

In addition to any other fine or penalty provided by law, any money or other thing of value derived by an officer or employee from a violation of who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be forfeited and, in the event of a knowing violation, there may also be imposed subject to a civil penalty in an amount equal to the amount of money or thing of value forfeited to the Commonwealth or the local government as the case may be received as a result of such violation. If the thing of value received by the officer or employee in violation of this chapter §§ 2.2-3103 through 2.2-3112 should enhance in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of forfeiture the civil penalty.

§ 3.1-336.10. Penalties and other remedies.

A. In addition to any other civil or criminal penalty or remedy provided by law, upon a determination that any person has violated § 3.1-336.6 or any regulation adopted pursuant thereto, the Commissioner may revoke or suspend such person's privilege to purchase tax stamps at a discounted rate. Each stamp affixed and each offer to sell cigarettes in violation of § 3.1-336.6 shall constitute a separate violation. Upon a determination of a violation of § 3.1-336.6 or any regulations adopted pursuant thereto, the Commissioner may also impose a civil penalty in an amount not to exceed the greater of (i) 500 percent of the retail value of the cigarettes sold or (ii) \$5,000.

B. Any cigarettes that have been sold, offered for sale or possessed for sale in the Commonwealth, or imported for personal consumption in the Commonwealth, in violation of § 3.1-336.6, shall be deemed contraband and may not be sold or offered for sale unless such cigarettes are listed in the Directory. Any such cigarettes that are sold or offered for sale when not included in the Directory shall be subject to confiscation and forfeiture. Any such confiscation and forfeiture shall be governed by the procedures contained in ~~§ 4.1-338~~ Chapter 22.1 (§ 19.2-386.1 et seq.), which shall apply mutatis mutandis; except that all such cigarettes so confiscated and forfeited shall be destroyed and not resold.

C. The Attorney General, on behalf of the Commissioner, may seek an injunction to restrain a threatened or actual violation of § 3.1-336.6, subsection A of § 3.1-336.8 or subsection B of § 3.1-336.8 by a stamping agent and to compel the stamping agent to comply with such provisions. In any action brought pursuant to this subsection in which the Commonwealth prevails, the Commonwealth shall be entitled to recover the reasonable costs of investigation, costs of the action and reasonable attorneys' fees.

D. It shall be unlawful for a person to (i) sell or distribute cigarettes or (ii) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the Commonwealth in violation of § 3.1-336.6. A violation of this section is a Class 2 misdemeanor.

§ 3.1-413. Disposition of proceeds from sale of such goods.

The proceeds arising from any such sale shall be paid into the state treasury and credited to the

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59 ~~general fund~~ disposed of in accordance with § 19.2-386.12; provided, that if the owner or party claiming
60 the property or goods so declared forfeited can produce and prove a written guaranty of purity, signed
61 by the wholesaler, jobber, manufacturers, or other party residing within this Commonwealth from whom
62 the articles were purchased, then the proceeds of the sale of such articles, over and above the costs of
63 seizure, forfeiture and sale, shall be paid over to such owner or claimant to reimburse him, to the extent
64 of such surplus, for his actual loss resulting from such seizure and forfeiture as shown by the invoice.

65 § 4.1-336. Contraband beverages and other articles subject to forfeiture.

66 All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all
67 alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages
68 may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of
69 this title, and any dangerous weapons as described in § 18.2-308, which may be used, or which may be
70 found upon the person or in any vehicle which such person is using, to aid such person in the unlawful
71 manufacture, transportation or sale of alcoholic beverages, or found in the possession of such person, or
72 any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature
73 whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being
74 unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful
75 manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

76 Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all
77 such property except motor vehicles which proceedings shall be in accordance with §§ 4.1-339 through
78 4.1-348 ~~Chapter 22.1~~ (§ 19.2-386.1 et seq.) of Title 19.2.

79 Such dangerous weapons seized by any officer charged with the enforcement of this title shall be
80 forfeited to the Commonwealth upon the conviction of the person owning or possessing such weapons
81 and shall be sold by order of court and the proceeds of such sale shall be paid into the Literary Fund.

82 § 6.1-18. When security not required.

83 No bank or trust company of this Commonwealth, with a minimum unimpaired capital stock of
84 \$50,000 or more, shall be required by any officer or court of this Commonwealth to give security upon
85 appointment to or acceptance of any office of trust which it may, by law, be authorized to execute or to
86 give security upon any bond given pursuant to § 4.1-341 § 19.2-386.6 or similar statute; provided,
87 however, no bank or trust company shall qualify on an estate having a value in excess of its combined
88 unimpaired capital and surplus without giving bond for such excess. When such bank or trust company
89 shall qualify on any office of trust, the clerk in lieu of collecting the fees under Title 17.1 and probate
90 taxes may render a bill or statement to such bank or trust company to be paid within five business days.

91 § 6.1-195.82. When security not required.

92 No association with a minimum combined unimpaired capital and surplus of \$50,000 or more shall
93 be required by any officer or court of this Commonwealth to give security upon appointment to or
94 acceptance of any fiduciary office which it may, by law, be authorized to execute, or to give security
95 upon any bond given pursuant to § 4.1-341 § 19.2-386.6 or similar statute. However, no association shall
96 qualify on an estate having a value in excess of its combined unimpaired capital and surplus without
97 giving security for such excess on its bond, unless the giving of such security is waived under the terms
98 of the governing instrument or by court order.

99 § 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction.

100 A. Except as otherwise provided herein, any person violating any provision of § 18.2-266 shall be
101 guilty of a Class 1 misdemeanor with a mandatory minimum fine of \$250. If the person's blood alcohol
102 level as indicated by the chemical test administered as provided in this article was at least 0.15, but not
103 more than 0.20, he shall be confined in jail for an additional mandatory minimum period of five days
104 or, if the level was more than 0.20, for an additional mandatory minimum period of 10 days.

105 B. 1. Any person convicted of a second offense committed within less than five years after a first
106 offense under § 18.2-266 shall upon conviction of the second offense be punished by a mandatory
107 minimum fine of \$500 and by confinement in jail for not less than one month nor more than one year.
108 Twenty days of such confinement shall be a mandatory minimum sentence.

109 2. Any person convicted of a second offense committed within a period of five to 10 years of a first
110 offense under § 18.2-266 shall upon conviction of the second offense be punished by a mandatory
111 minimum fine of \$500 and by confinement in jail for not less than one month. Ten days of such
112 confinement shall be a mandatory minimum sentence.

113 3. Upon conviction of a second offense within 10 years of a first offense, if the person's blood
114 alcohol level as indicated by the chemical test administered as provided in this article was at least 0.15,
115 but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10
116 days or, if the level was more than 0.20, for an additional mandatory minimum period of 20 days. In
117 addition, such person shall be fined a mandatory minimum fine of \$500.

118 C. 1. Any person convicted of three offenses of § 18.2-266 committed within a 10-year period shall
119 upon conviction of the third offense be guilty of a Class 6 felony. The sentence of any person convicted
120 of three offenses of § 18.2-266 committed within a 10-year period shall include a mandatory minimum

121 sentence of 90 days, unless the three offenses were committed within a five-year period, in which case
 122 the sentence shall include a mandatory minimum sentence of confinement for six months. In addition,
 123 such person shall be fined a mandatory minimum fine of \$1,000.

124 2. The punishment of any person convicted of a fourth or subsequent offense of § 18.2-266
 125 committed within a 10-year period shall, upon conviction, include a mandatory minimum term of
 126 imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of \$1,000.
 127 Unless otherwise modified by the court, the defendant shall remain on probation and under the terms of
 128 any suspended sentence for the same period as his operator's license was suspended, not to exceed three
 129 years.

130 3. The vehicle solely owned and operated by the accused during the commission of a felony
 131 violation of § 18.2-266 shall be subject to seizure and forfeiture. After an arrest for a felony violation of
 132 § 18.2-266, the Commonwealth may file an information in accordance with § 19.2-386.1. If the
 133 information is filed, the Commonwealth shall notify the Commissioner of the Department of Motor
 134 Vehicles that the property is subject to seizure. The Commissioner shall act upon such notification
 135 pursuant to the provisions for certification and notice applicable to a seizure under § 19.2-375, except
 136 that the Commissioner shall serve the written notice of the seizure upon the registered owner and lienor
 137 in accordance with the requirements of § 8.01-296. Any seizure shall be stayed until conviction and the
 138 exhaustion of all appeals at which time, if the information has been filed, the Commonwealth shall
 139 immediately commence seizure of the property in accordance with § 19.2-386.2.

140 An immediate family member of the owner of any motor vehicle for which an information has been
 141 filed under this section who was not the driver at the time of the violation may petition the court in
 142 which such information was filed for the release of the motor vehicle. If the immediate family member
 143 proves by a preponderance of the evidence that his immediate family has only one motor vehicle and
 144 will suffer a substantial hardship if that motor vehicle is seized and forfeited, the court, in its discretion,
 145 may release the vehicle.

146 In the event the vehicle was sold to a bona fide purchaser subsequent to the arrest but prior to
 147 seizure in order to avoid seizure and forfeiture, the Commonwealth shall have a right of action against
 148 the seller for the proceeds of the sale.

149 D. In addition to the penalty otherwise authorized by this section or § 16.1-278.9, any person
 150 convicted of a violation of § 18.2-266 committed while transporting a person 17 years of age or younger
 151 shall be (i) fined an additional minimum of \$500 and not more than \$1,000 and (ii) sentenced to a
 152 mandatory minimum period of confinement of five days.

153 E. For the purpose of this section, an adult conviction of any person, or finding of guilty in the case
 154 of a juvenile, under the following shall be considered a conviction of § 18.2-266: (i) the provisions of
 155 § 18.2-36.1 or the substantially similar laws of any other state or of the United States, (ii) the provisions
 156 of §§ 18.2-51.4, 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or
 157 town in this Commonwealth or the laws of any other state or of the United States substantially similar
 158 to the provisions of § 18.2-51.4, or § 18.2-266, or (iii) the provisions of subsection A of § 46.2-341.24
 159 or the substantially similar laws of any other state or of the United States.

160 § 18.2-340. County ordinances prohibiting illegal gambling.

161 The governing body of any county may adopt ordinances prohibiting illegal gambling and other
 162 illegal activity related thereto, including a provision for forfeiture proceedings in the name of the county
 163 which shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. Such ordinances
 164 shall not conflict with the provisions of this article or with other state laws and any penalties provided
 165 for violation of such ordinances shall not exceed a fine of \$2,500 or confinement in jail for twelve
 166 months, either or both.

167 § 18.2-515. Criminal penalties; forfeiture.

168 A. Any person or enterprise convicted of engaging in activity in violation of the provisions of
 169 § 18.2-514 is guilty of a felony punishable by imprisonment for not less than five years nor more than
 170 40 years and a fine of not more than \$1 million. A second or subsequent offense shall be punishable as
 171 a Class 2 felony and a fine of not more than \$2 million.

172 The court may order any such person or enterprise to be divested of any interest in any enterprise or
 173 real property identified in § 18.2-514; order the dissolution or reorganization of such enterprise; and
 174 order the suspension or revocation of any license, permit, or prior approval granted to such enterprise or
 175 person by any agency of the Commonwealth or political subdivision thereof.

176 B. All property, real or personal, including money, used in substantial connection with, intended for
 177 use in the course of, or traceable to, conduct in violation of any provision of § 18.2-514 is subject to
 178 civil forfeiture to the Commonwealth. The forfeiture proceeding shall be conducted pursuant to the
 179 provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

180 § 18.2-516. Prohibition of illegal money transmitting.

181 A. Any person who controls, manages, or owns all or part of an enterprise, engaged in money

transmission as defined in § 6.1-370, and transmits money, which he knows or should have known was derived from or traceable to racketeering activity, is guilty of a Class 6 felony.

B. All property, real or personal, including money, used in substantial connection with, intended for use in the course of, or traceable to, conduct in violation of any provision of subsection A is subject to civil forfeiture to the Commonwealth. The forfeiture proceeding shall be conducted pursuant to the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 19.2-368.20. Order of special forfeiture.

Any proceeds or profits received or to be received directly or indirectly by a defendant or a transferee of that defendant from any source, as a direct or indirect result of his crime or sentence, or the notoriety which such crime or sentence has conferred upon him, shall be subject to forfeiture pursuant to Chapter 22.1 (§ 19.2-369 19.2-386.1 et seq.) of this title.

Income from the defendant's employment in a position unrelated to his crime or the notoriety which such crime has conferred upon him but obtained through the assistance of or rehabilitative training by correctional or mental health programs or personnel shall not be subject to forfeiture under this section, and nothing in this section shall be construed to prohibit or hinder the return of property belonging to victims of crime to its rightful owners. Any proceeds from a contract relating to a depiction or discussion of the defendant's crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment or publication of any kind shall not be subject to forfeiture unless an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions, or emotions regarding such crime.

Upon petition of the attorney for the Commonwealth filed at any time after conviction of such defendant or his acquittal by reason of insanity and after notice to the interested parties, a hearing upon the motion and a finding for the Commonwealth, for good cause shown, any circuit court in which the petition is filed shall order that such proceeds be forfeited.

An order issued under this section shall require that the defendant and the person with whom the defendant contracts pay to the Division any proceeds due the defendant under the contract.

CHAPTER 22.1

ENFORCEMENT OF FORFEITURES.

§ 19.2-386.1. Commencing an action of forfeiture.

An action against any property subject to seizure under the provisions of § 19.2-386.15 or § 19.2-386.22 using the forfeiture provisions of this chapter shall be commenced by the filing of an information in the clerk's office of the circuit court. Any information shall be filed in the name of the Commonwealth by the attorney for the Commonwealth or may be filed by the Attorney General if so requested by the attorney for the Commonwealth. Venue for an action of forfeiture shall lie in the county or city where (i) the property is located, (ii) the property is seized, or (iii) an owner of the property could be prosecuted for the illegal conduct alleged to give rise to the forfeiture. Such information shall (i) name as parties defendant all owners and lienholders then known or of record and the trustees named in any deed of trust securing such lienholder, (ii) specifically describe the property, (iii) set forth in general terms the grounds for forfeiture of the named property, (iv) pray that the same be condemned and sold or otherwise be disposed of according to law, and (v) ask that all persons concerned or interested be notified to appear and show cause why such property should not be forfeited. In all cases, an information shall be filed within three years of the date of actual discovery by the Commonwealth of the last act giving rise to the forfeiture or the action for forfeiture will be barred.

§ 19.2-386.1:1. How forfeitures of property not otherwise provided for are enforced.

Except as otherwise specifically provided by law, whenever any property is forfeited to the Commonwealth by reason of the violation of any law, the court in which the offender is convicted shall have jurisdiction to dispose of the property according to the procedures provided for in this chapter.

§ 19.2-386.2. Seizure of named property.

A. When any property subject to seizure under Chapter 22.2 (§ 19.2-386.15 or § 19.2-386.22 et seq.) of this title has not been seized at the time an information naming that property is filed, the clerk of the circuit court, upon motion of the attorney for the Commonwealth wherein the information is filed, shall issue a warrant to the sheriff or other state or local law-enforcement officer authorized to serve criminal process in the jurisdiction where the property is located, describing the property named in the complaint and authorizing its immediate seizure.

B. In all cases of seizure of real property, a notice of lis pendens shall be filed with the clerk of the circuit court of the county or city wherein the property is located and shall be indexed in the land records in the name or names of those persons whose interests appear to be affected thereby.

§ 19.2-386.2:1. Notice to Commissioner of Motor Vehicles; duties of Commissioner.

If the property seized is a motor vehicle required by the laws of Virginia to be registered, the attorney for the Commonwealth shall forthwith notify the Commissioner of the Department of Motor Vehicles, by certified mail, of such seizure and of the motor number of the vehicle so seized, and the Commissioner shall promptly certify to such attorney for the Commonwealth the name and address of

the person in whose name such vehicle is registered, together with the name and address of any person holding a lien thereon, and the amount thereof. The Commissioner shall also forthwith notify such registered owner and lienor, in writing, of the reported seizure and the county or city wherein such seizure was made.

The certificate of the Commissioner, concerning such registration and lien, shall be received in evidence in any proceeding, either civil or criminal, under any provision of this chapter or Chapter 22.2 (§ 19.2-386.15 *se seq.*) of this title, in which such facts may be material to the issue involved.

§ 19.2-386.3. Notice of seizure for forfeiture and notice of motion for judgment.

A. If an information has not been filed, then upon seizure of any property ~~under § 19.2-386.15 or § 19.2-386.22~~, using the forfeiture provisions of this chapter, the agency seizing the property shall forthwith notify in writing the attorney for the Commonwealth in the county or city in which the seizure occurred, who shall, within 21 days of receipt of such notice, file a notice of seizure for forfeiture with the clerk of the circuit court. Such notice of seizure for forfeiture shall specifically describe the property seized, set forth in general terms the grounds for seizure, identify the date on which the seizure occurred, and identify all owners and lien holders then known or of record. The clerk shall forthwith mail by first-class mail notice of seizure for forfeiture to the last known address of all identified owners and lien holders. When property has been seized under Chapter 22.2 (§ 19.2-386.15 ~~or § 19.2-386.22~~ *et seq.*) of this title prior to filing an information, then an information against that property shall be filed within 90 days of the date of seizure or the property shall be released to the owner or lien holder.

B. Except as to corporations, all parties defendant shall be served, in accordance with § 8.01-296, with a copy of the information and a notice to appear prior to any motion for default judgment on the information. The notice shall contain a statement warning the party defendant that his interest in the property shall be subject to forfeiture to the Commonwealth unless within 30 days after service on him of the notice, or before the date set forth in the order of publication with respect to the notice, an answer under oath is filed in the proceeding setting forth (i) the nature of the defendant's claim, (ii) the exact right, title or character of the ownership or interest in the property and the evidence thereof, and (iii) the reason, cause, exemption or defense he may have against the forfeiture of his interest in the property, including but not limited to the exemptions set forth in § 19.2-386.8. Service upon corporations shall be made in accordance with § 8.01-299 or subdivision 1 or 2 of § 8.01-301; however, if such service cannot be thus made, it shall be made by publication in accordance with § 8.01-317.

§ 19.2-386.4. Records and handling of seized property.

Any agency seizing property ~~under §§ 19.2-386.2, 19.2-386.15 or § 19.2-386.22~~, using the procedures of this chapter pending forfeiture and final disposition, may do any of the following:

1. Place the property under constructive seizure by posting notice of seizure for forfeiture on the property or by filing notice of seizure for forfeiture in any appropriate public record relating to property;
2. Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest-bearing account;
3. Remove the property to a place designated by the circuit court in the county or city wherein the property was seized; or
4. Provide for another custodian or agency to take custody of the property and remove it to an appropriate location within or without the jurisdiction of the circuit court in the county or city wherein the property was seized or in which the complaint was filed.

A report regarding the type of property subject to forfeiture and its handling pursuant to this section and § 19.2-386.5, and the final disposition of the property shall be filed by the seizing agency with the Department of Criminal Justice Services in accordance with regulations promulgated by the Board.

§ 19.2-386.5. Release of seized property.

At any time prior to the filing of an information, the attorney for the Commonwealth in the county or city in which the property has been seized pursuant to Chapter 22.2 (§ 19.2-386.15 ~~or § 19.2-386.22~~ *et seq.*) of this title may, in his discretion, upon the payment of costs incident to the custody of the seized property, return the seized property to an owner or lien holder, without requiring that the owner or lien holder post bond as provided in § 19.2-386.6, if he believes the property is properly exempt from forfeiture pursuant to § 19.2-386.8.

§ 19.2-386.12. Sale of forfeited property.

A. Any sale of forfeited property shall be made for cash, after due advertisement. The sale shall be by public sale or other commercially feasible means authorized by the court in the order of forfeiture and shall vest in the purchaser a clear and absolute title to the property sold subject to the rights of any lien holder whose interest is not forfeited. The proceeds of sale, and whatever may be realized on any bond given under § 19.2-386.6, and any money forfeited shall be paid over to the state treasury into a special fund of the Department of Criminal Justice Services in accordance with § 19.2-386.14.

B. In all cases of forfeiture under this section, the actual expenses incident to the custody, preservation, and management of the seized property prior to forfeiture, the actual expenses incident to

normal legal proceedings to perfect the Commonwealth's interest in the seized property through forfeiture, and the actual expenses incident to the sale thereof, including commissions, shall be taxed as costs and shall be paid to the person or persons who incurred these costs out of the net proceeds from the sale of such property. If there are no proceeds, the actual expenses shall be paid by the Commonwealth from the Criminal Fund. Actual expenses in excess of the available net proceeds shall be paid by the Commonwealth from the Criminal Fund. The party or parties in interest to any forfeiture proceeding commenced under this section shall be entitled to reasonable attorney's fees and court costs if the forfeiture proceeding is terminated in favor of such party or parties. Such fees and costs shall be paid by the Commonwealth from the Criminal Fund.

The residue, if any, shall be paid and disbursed as provided in subsection A of § 19.2-386.10 and § 19.2-386.14 and regulations promulgated by the Criminal Justice Services Board.

§ 19.2-386.14. Sharing of forfeited drug assets.

A. All cash, negotiable instruments and proceeds from a sale conducted pursuant to § 19.2-386.7 or § 19.2-386.12, after deduction of expenses, fees and costs as provided in § 19.2-386.12, shall, as soon after entry of the forfeiture as is practicable, be paid over to the state treasury into a special fund of the Department of Criminal Justice Services for distribution in accordance with this section. The forfeited property and proceeds, less ten percent, shall be made available to federal, state and local agencies to promote law enforcement in accordance with this section and regulations adopted by the Criminal Justice Services Board to implement the asset-sharing program.

The ten percent retained by the Department shall be held in a nonreverting fund, known as the Asset Sharing Administrative Fund. Administrative costs incurred by the Department to manage and operate the asset-sharing program shall be paid from the Fund. Any amounts remaining in the Fund after payment of these costs shall be used to promote state or local law-enforcement activities. Distributions from the Fund for these activities shall be based upon need and shall be made from time to time in accordance with regulations promulgated by the Board.

All cash, negotiable instruments, and proceeds from a sale conducted pursuant to § 19.2-386.7 or § 19.2-386.12, after deduction of expenses, fees, and costs as provided in § 19.2-386.12, shall, as soon after entry of the forfeiture as practicable, be distributed in a manner consistent with this statute and Article VIII, Section 8 of the Constitution of Virginia.

B. Any federal, state or local agency or office that directly participated in the investigation or other law-enforcement activity which led, directly or indirectly, to the seizure and forfeiture shall be eligible for, and may petition the Department for, return of the forfeited asset or an equitable share of the net proceeds, based upon the degree of participation in the law-enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law-enforcement effort with respect to the violation of law on which the forfeiture is based. Upon finding that the petitioning agency is eligible for distribution and that all participating agencies agree on the equitable share of each, the Department shall distribute each share directly to the appropriate treasury of the participating agency.

If all eligible participating agencies cannot agree on the equitable shares of the net proceeds, the shares shall be determined by the Criminal Justice Services Board in accordance with regulations which shall specify the criteria to be used by the Board in assessing the degree of participation in the law-enforcement effort resulting in the forfeiture.

C. After the order of forfeiture is entered concerning any motor vehicle, boat, aircraft, or other tangible personal property, any seizing agency may: ~~(i) petition the Department for return of any forfeited motor vehicle, boat or aircraft or other tangible personal property which is not subject to a grant or pending petition for remission; or (ii) request the circuit court to order the property destroyed.~~ Where all the participating agencies agree upon the equitable distribution of the tangible personal property, the Department shall return the property to those agencies upon finding that (i) the agency meets the criteria for distribution as set forth in subsection B and (ii) the agency has a clear and reasonable law-enforcement need for the forfeited property.

If all eligible participating agencies cannot agree on the distribution of the property, distribution shall be determined by the Criminal Justice Services Board as in subsection B, taking into consideration the clear and reasonable law-enforcement needs for the property which the agencies may have. In order to equitably distribute tangible personal property, the Criminal Justice Services Board may require the agency receiving the property to reimburse the Department in cash for the difference between the fair market value of the forfeited property and the agency's equitable share as determined by the Criminal Justice Services Board.

If a seizing agency has received property for its use, pursuant to the above paragraphs, when the agency is disposing of the property: (i) if sold, the proceeds shall be distributed as outlined in this section; or (ii) if the seizing agency decides that the property should be destroyed, then the agency shall do so in a manner consistent with this section.

D. All forfeited property, including its proceeds or cash equivalent, received by a participating state or local agency pursuant to this section shall be used to promote law enforcement but shall not be used

to supplant existing programs or funds. The Board shall promulgate regulations establishing an audit procedure to ensure compliance with this section.

CHAPTER 22.2

MISCELLANEOUS FORFEITURE PROVISIONS.

§ 19.2-386.16. Forfeiture of motor vehicles used in commission of certain crimes.

Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a second or subsequent offense of §§ 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356 or § 18.2-357 or of a similar ordinance of any county, city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is \$200 or more, or any stolen property obtained as a result of a robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

Forfeiture of such vehicle shall be enforced as is provided in §§ ~~4.1-339 through 4.1-348~~ as to vehicles used for the transportation of illegally acquired alcoholic beverages, and the provisions of §§ ~~4.1-339 through 4.1-348~~ shall apply, mutatis mutandis, to proceedings for the enforcement of such forfeiture except that venue for the forfeiture proceeding shall be in the county or city in which the offense occurred.

The agency seizing the motor vehicle or other conveyance shall, for such period of time as the court prescribes, be permitted the use and operation of the motor vehicle or other conveyance, after court forfeiture, for the investigation of crimes against the Commonwealth by the agency seizing the motor vehicle or other conveyance. The agency using or operating each motor vehicle shall have insurance on each vehicle used or operated for liability and property damage *Chapter 22.1 (§19.2-386.1 et seq.) of this title.*

§ 19.2-386.18. Forfeiture of unlawful electronic communication devices.

Any unlawful electronic communication device possessed, manufactured or sold in violation of §§ 18.2-190.2, 18.2-190.3 or § 18.2-190.4 may be seized and forfeited to the Commonwealth, and turned over to the circuit court in the city or county in which it was seized and such property shall be disposed of as ~~provided by law in the manner stated in §19.2-386.12.~~

§ 19.2-386.19. Seizure of property used in connection with money laundering.

The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2: (i) all money, equipment, motor vehicles, and all other personal and real property of any kind or character used in substantial connection with the laundering of proceeds of some form of activity punishable as a felony under the laws of the Commonwealth, another state or territory of the United States, the District of Columbia, or the United States, and (ii) all money or other property, real or personal, traceable to the proceeds of some form of activity punishable as a felony under the laws of the Commonwealth, another state or territory of the United States, the District of Columbia, or the United States, together with any interest or profits derived from the investment of such proceeds or other property. Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation is a term of imprisonment of not less than five years. All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et seq.) of this title, and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under Article 9 (§ ~~18.2-246.1 et seq.~~) of Chapter 6 of Title 18.2.

§ 19.2-386.26. Seizure and forfeiture of drug paraphernalia.

All drug paraphernalia as defined in Article 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 shall be forfeited to the Commonwealth and may be seized and disposed of in the same manner as provided in § 19.2-386.23, subject to the rights of an innocent lienor, to be recognized as under § ~~4.1-343~~ 19.2-386.8.

§ 19.2-386.29. Forfeiture of certain weapons used in commission of criminal offense.

All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, ballistic knives, razors, slingshots, brass or metal knucks, blackjacks, stun weapons and tasers, and other weapons used by any person in the commission of a criminal offense, shall, upon conviction of such person, be forfeited to the Commonwealth by order of the court trying the case. The court shall dispose of such weapons as it deems proper by entry of an order of record. Such disposition may include the destruction of the weapons or, subject to any registration requirements of federal law, sale of the firearms to a licensed dealer in such firearms in accordance with the provisions of ~~Chapter 22 (§19.2-369 et seq.) Chapter 22.1 (§ 19.2-386.1 et seq.)~~ of this title regarding sale of property forfeited to the Commonwealth.

The proceeds of any sale of such weapon shall be paid in accordance with the provisions of Article VIII, Section 8 of the Constitution of Virginia. In addition, the court may authorize the seizing law-enforcement agency to use the weapon for a period of time as specified in the order. When the

428 seizing agency ceases to so use the weapon, it shall be disposed of as otherwise provided in this section.
429 However, upon petition to the court and notice to the attorney for the Commonwealth, the court,
430 upon good cause shown, shall return any such weapon to its lawful owner after conclusion of all
431 relevant proceedings if such owner (i) did not know and had no reason to know of the conduct giving
432 rise to the forfeiture and (ii) is not otherwise prohibited by law from possessing the weapon. The owner
433 shall acknowledge in a sworn affidavit to be filed with the record in the case or cases that he has
434 retaken possession of the weapon involved.

435 § 19.2-386.30. Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise;
436 innocent owners or lienors.

437 All money, gambling devices, office equipment and other personal property used in connection with
438 an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed
439 to be received by a winner in any illegal gambling transaction, which are lawfully seized by any
440 law-enforcement officer or which shall lawfully come into his custody, shall be forfeited to the
441 Commonwealth by order of the court in which a conviction under Article 4 (~~§ 18.2-325 et seq.~~) of
442 Chapter 8 of Title 18.2 is obtained. Such court shall order all money so forfeited to be paid over to the
443 Commonwealth, and by order shall make such disposition of other property so forfeited as the court
444 deems proper, including award of such property to any state agency or charitable organization for lawful
445 purposes; or in case of the sale thereof, the proceeds therefrom to be paid over to the Commonwealth.
446 Provided, however, that such forfeiture shall not extinguish the rights of any person without knowledge
447 of the illegal use of such property who is the lawful owner or who has a lien on the same, which has
448 been perfected in the manner provided by law in accordance with the provisions of Chapter 22.1
449 (*§ 19.2-386.1 et seq.*) of this title.

450 § 19.2-386.31. Seizure and forfeiture of property used in connection with production of sexually
451 explicit items involving children.

452 All audio and visual equipment, electronic equipment, devices and other personal property used in
453 connection with the production, distribution, publication, sale, possession with intent to distribute or
454 making of sexually explicit visual material having a person less than 18 years of age as a subject shall
455 be subject to lawful seizure by a law-enforcement officer and shall be subject to forfeiture to the
456 Commonwealth pursuant to Chapter 22 (~~§ 19.2-369 et seq.~~) of this title by order of the court in which a
457 conviction under ~~§ 18.2-374.1~~ is obtained. Notwithstanding the provisions of ~~§ 19.2-381~~, the court shall
458 dispose of the forfeited property as it deems proper, including awarding the property to a state agency
459 for lawful purposes. If the property is disposed of by sale, the court shall provide that the proceeds be
460 paid into the Literary Fund Chapter 22.1 (*§ 19.2-386.1 et seq.*) of this title. The Commonwealth shall file
461 an information and notice of seizure pursuant to the procedures in this chapter, but any action in
462 regards to forfeiture shall be stayed until conviction. At the time of the conviction, the court may
463 dispose of the issue of forfeiture or may continue the civil case allowing the defendant time to answer,
464 at the sole discretion of the court.

465 A forfeiture under this section shall not extinguish the rights of any person without knowledge of the
466 illegal use of the property who (i) is the lawful owner or (ii) has a valid and perfected lien on the
467 property.

468 *§ 19.2-386.32. Forfeiture of money, etc. derived from violation of §§ 2.2-3103 through 2.2-3112. In*
469 *addition to any other fine or penalty provided by law, any money or other thing of value derived by an*
470 *officer or employee from a violation of §§ 2.2-3103 through 2.2-3112 shall be forfeited, in accordance*
471 *with the procedures contained in Chapter 22.1 (*§ 19.2-386.1 et seq.*) of this title. If the thing of value*
472 *received by the officer or employee in violation of §§ 2.2-3103 through 2.2-3112 should enhance in*
473 *value between the time of the violation and the time of discovery of the violation, the greater value shall*
474 *determine the amount of forfeiture.*

475 *§ 19.2-386.33. Forfeiture of vehicle used in a felony violation of § 18.2-266.*

476 *The vehicle owned and operated by the accused during the commission of a felony violation of*
477 *§ 18.2-266 shall be subject to lawful seizure by any law-enforcement officer and subject to forfeiture.*
478 *After an arrest for a felony violation of § 18.2-266, the Commonwealth may forfeit such vehicle pursuant*
479 *to the procedures set forth in Chapter 22.1 (*§ 19.2-386.1 et seq.*) of this title. An immediate family*
480 *member of the owner of any motor vehicle for which an information has been filed under this section*
481 *who was not the driver at the time of the violation may petition the court in which such information was*
482 *filed for the release of the motor vehicle. If the immediate family member proves by a preponderance of*
483 *the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship*
484 *if that motor vehicle is seized and forfeited, the court, in its discretion, may release the vehicle.*

485 *§ 19.2-386.34. Forfeiture of fishing gear, etc.*

486 *Any net, pot, or other fishing device or gear used in violation of any of the provisions of Article 3*
487 *(*§ 28.2-314 et seq.*) of Chapter 3 of Title 28.2 shall be seized and forfeited to the Commonwealth. The*
488 *forfeiture shall be enforced as provided in Chapter 22.1 (*§ 19.2-386.1 et seq.*) of this title.*

489 *§ 19.2-386.35. Forfeiture of fishing gear, etc.*

Any net, pot, or other fishing device or gear used in violation of any of the provisions of Article 1 (§ 28.2-400 et seq.) of Chapter 4 of Title 28.2 shall be seized and forfeited to the Commonwealth. The forfeiture shall be enforced as provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.36. Forfeiture for illegal shellfish.

Upon conviction of violating any provision of Chapter 8 (§ 28.2-800 et seq.) of Title 28.2 any boat, vessel, motor vehicle, or equipment used in committing the violation may be seized and forfeited to the Commonwealth. The forfeiture shall be enforced as provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.37. Forfeiture for violations of tidal fisheries.

Officers may, with or without a warrant, (i) seize any net, pot, or other fishing device or gear used in violating any provisions of Subtitle II (§ 28.200 et seq.) of Title 28.2 and (ii) seize fish, shellfish, or marine organisms taken or handled in violation of such subtitle. Each seized property shall be forfeited to the Commonwealth. The forfeiture shall be enforced as provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.38. Forfeiture of furs.

Any furs found in the possession of any person or firm and acquired in violation of Article 1 (§ 29.1-400 et seq.) of Chapter 4 of Title 29.1 shall be seized and forfeited to the Commonwealth. The proceedings for forfeiture shall conform as far as practicable to the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.39. Violation of § 18.2-286; forfeiture.

Any firearm, crossbow, or bow and arrow used by any person to hunt any game bird or game animal in a manner that violates § 18.2-286 may, upon conviction of such person violating § 18.2-286, be seized and forfeited to the Commonwealth by order of the court trying the case. The court shall order that the property be disposed of in a manner consistent with § 19.2-386.12.

§ 19.2-386.40. Violation of § 29.1-523.1; forfeiture of weapon and sighting device.

Every firearm equipped with any sighting device other than iron or open sights used with the knowledge or consent of the owner in violation of § 29.1-523.1 shall upon conviction of such person violating § 29.1-523.1, be seized and forfeited to the Commonwealth by order of the court trying the case. The court shall order that the property be disposed of in a manner consistent with § 19.2-386.12. This section shall not apply to persons duly authorized to kill deer according to the provisions of § 29.1-529.

§ 19.2-386.41. Forfeiture of vehicles and weapons used in violation of § 29.1-523.

Every vehicle, firearm, crossbow, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer between a half hour after sunset and a half hour before sunrise in violation of § 29.1-523, and every vehicle used in the transportation of the carcass, or any part thereof, of a deer so killed shall be seized and forfeited to the Commonwealth, in proceedings pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.42. Forfeiture of weapons and watercraft used in violation of § 29.1-549.

Every boat or other watercraft and their motors, and any firearm, crossbow, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer in violation of this section, shall be seized and forfeited to the Commonwealth, in proceedings pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.43. Forfeiture of money, etc. derived from violation of §§ 30-103 through 30-108.

In addition to any other fine or penalty provided by law, any money or other thing of value derived by a legislator from a violation of §§ 30-103 through 30-108 shall be seized and forfeited in accordance with the procedure contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title. If the thing of value received by the legislator in violation of §§ 30-103 through 30-108 should enhance in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of the forfeiture.

§ 19.2-386.44. Racing; seizure of motor vehicle.

If the owner of a motor vehicle is convicted of racing such vehicle in a prearranged, organized, and planned speed competition in violation of § 46.2-865, or is present in the vehicle which is being operated by another in violation of § 46.2-865, and knowingly consents to the racing, the vehicle shall be seized and disposed of in the manner provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title mutatis mutandis. The penalties imposed by these sections are in addition to any other penalty imposed by law.

§ 19.2-386.45 Forfeiture of vehicles equipped with smoke projectors, etc.

Any motor vehicle found to be equipped with any device, appliance, equipment, or instrument as mentioned in § 46.2-1086, or equipped for the installation or attachment of any "smoke screen" or gas or flame-emitting device, appliance, equipment, or instrument, as so mentioned, shall be seized and forfeited to the Commonwealth in accordance with the procedures contained in Chapter 22.1

551 (§ 19.2-386.1 et seq.) of this title. No such forfeiture, however, shall take place unless the owner or
552 operator knows that such vehicle is so equipped.

553 § 19.2-386.46 Forfeiture of unlawful importing, transportation, delivery, storage or sale of fuel.

554 A. All fuel and any property, tangible or intangible, that may be found upon the person or in any
555 vehicle that such person is using, including the vehicle itself, to aid the person in the transportation or
556 sale of illegally transported, delivered, stored, sold, imported, or acquired fuel, and any property found
557 in the immediate vicinity of any place where such illegally transported, delivered, stored, sold, imported,
558 or acquired fuel may be located, including motor vehicles, tanks, and other storage devices used to aid
559 in the illegal transportation or sale of such fuel, shall be deemed contraband and shall be seized and
560 forfeited to the Commonwealth.

561 B. Any efforts by the Department of Motor Vehicles to effect the forfeiture allowed under the
562 authority of this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et seq.) of this title, mutatis
563 mutandis. However, such procedures shall not be applicable to the Department of Motor Vehicles' tax
564 collection powers and the use of such powers to enforce a tax liability against the illegally transported,
565 delivered, stored, sold, imported, or acquired fuel.

566 § 19.2-386.47. Forfeiture of property connected to a violation of §18.2-514.

567 All property, real or personal, including money, used in substantial connection with, intended for use
568 in the course of, or traceable to, conduct in violation of § 18.2-514 shall be subject to lawful seizure by
569 any law-enforcement officer and subject to civil forfeiture to the Commonwealth. The forfeiture
570 proceeding shall be conducted pursuant to the provisions of by Chapter 22.1 (§ 19.2-386.1 et seq.) of
571 this title.

572 § 19.2-386.48. Forfeiture of property connected to a violation of §18.2-516.

573 All property, real or personal, including money, used in substantial connection with, intended for use
574 in the course of, or traceable to, conduct in violation of § 18.2-516 shall be subject to lawful seizure by
575 any law-enforcement officer and subject to civil forfeiture to the Commonwealth. The forfeiture
576 proceeding shall be conducted pursuant to the provisions of by Chapter 22.1 (§ 19.2-386.1 et seq.) of
577 this title.

578 § 22.1-142. How Fund constituted; management.

579 There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund," the
580 present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the
581 Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary
582 Fund pursuant to Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 and the proceeds of (i) all public lands
583 donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and
584 unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture *except those items*
585 *specifically exempted*, (v) all fines collected for offenses committed against the Commonwealth, and (vi)
586 the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board
587 of Education as prescribed by § 22.1-145.

588 § 28.2-821. Violations; penalty.

589 A. It is unlawful for any person to have in his possession, to store, to sell, or to offer for sale any
590 shellfish which have been removed or taken from a condemned area other than as provided in
591 § 28.2-810. Any person who violates this section or any provision of this chapter is guilty of a Class 1
592 misdemeanor.

593 B. Upon conviction of violating any provision of this chapter any boat, vessel, motor vehicle or
594 equipment used in committing the violation may be forfeited as provided by Chapter 22 (§ 19.2-369 et
595 seq.) of Title 19.2.

596 § 28.2-900. Arrest with or without warrant; larceny; violations of boating laws and Title 62.1.

597 A. Officers may *arrest*, with or without a warrant, ~~(i) arrest any person violating any provision of~~
598 ~~this subtitle; (ii) seize any net, pot, or other fishing device or gear used in violating such laws and (iii)~~
599 ~~seize fish, shellfish or marine organisms taken or handled in violation of this subtitle. Each seized~~
600 ~~property shall be forfeited to the Commonwealth. The forfeiture shall be enforced as provided in~~
601 ~~Chapter 22 (§ 19.2-369 et seq.) of Title 19.2. The officer seizing the property to be forfeited shall~~
602 ~~immediately give notice to the attorney for the Commonwealth.~~

603 B. All officers may arrest, with or without a warrant, any person who commits in his presence (i)
604 any larceny committed upon or adjacent to the waters of the Commonwealth, (ii) any violation of the
605 provisions of Chapter 7 (§ 29.1-700 et seq.) of Title 29.1, or any regulations promulgated thereunder, or
606 (iii) any violation of the provisions of Chapter 18 (§ 62.1-187 et seq.) or 20 (§ 62.1-194 et seq.) of Title
607 62.1.

608 § 28.2-902. Procedure after arrest and seizure.

609 Any person arrested may be (i) taken before a court of competent jurisdiction for trial, (ii) committed
610 to jail pending trial, (iii) admitted to bail or released on recognizance as provided by general law, or (iv)
611 issued a summons requiring him to appear for trial. The time specified in the summons shall not be less
612 than five days from the date of arrest unless such person requests an earlier hearing. Any person failing

to appear as directed in the summons shall be guilty of a Class 1 misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested. If the person fails to appear, a warrant for his arrest may be issued.

Any property seized under the provisions of ~~subsection A of § 28.2-900~~ § 19.2-386.36 may be held by the officer or other official who made the seizure, pending final outcome of the legal proceedings.

§ 29.1-521.2. Violation of § 18.2-286 while hunting; revocation of license.

A. ~~Any firearm, crossbow or bow and arrow used by any person to hunt any game bird or game animal in a manner which violates § 18.2-286 may, upon conviction of such person violating § 18.2-286, be forfeited to the Commonwealth by order of the court trying the case. The forfeiture shall be enforced as provided in Chapter 22 (§ 19.2-369 et seq.) of Title 19.2. The officer or other person seizing the property shall immediately give notice to the attorney for the Commonwealth.~~

B. The court may revoke the current hunting license, if any, of a person hunting any game bird or game animal in a manner that constitutes a violation of § 18.2-286. The court may prohibit the issuance of any hunting license to that person for a period of up to five years. If found hunting during this prohibited period, the person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsection C of § 18.2-56.1.

§ 29.1-523.1. Hunting deer with sights after dark and sighting device.

A. ~~Any person who kills or attempts to kill any deer between one hour after sunset and one hour before sunrise using a firearm equipped with any sighting device other than iron or open sights shall be guilty of a Class 2 misdemeanor. In addition to this penalty, the court shall revoke the current hunting license, if any, of the person convicted of violating this section and prohibit the issuance of any hunting license to that person for the next license year. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsections C and D of § 18.2-56.1.~~

B. ~~Every firearm equipped with any sighting device other than iron or open sights used with the knowledge or consent of the owner in violation of this section shall be forfeited to the Commonwealth. Upon being condemned as forfeited in proceedings under Chapter 22 (§ 19.2-369 et seq.) of Title 19.2, the proceeds of the sale shall be disposed of according to law.~~

This section shall not apply to persons duly authorized to kill deer according to the provisions of § 29.1-529.

§ 29.1-536. Sale.

When taken in accordance with the provisions of law or regulation, muskrat, opossum, rabbits, raccoon and squirrels may be bought and sold during the open hunting season only, but the hides, furs or pelts of fur-bearing animals legally taken and possessed, and the carcass of any fur-bearing animal may be sold at any time in accordance with §§ 29.1-400 through ~~29.1-407~~ 29.1-406.

§ 29.1-549. Hunting deer from watercraft.

A. ~~Any person who kills or attempts to kill any deer while the person is in a boat or other type watercraft shall be guilty of a Class 4 misdemeanor.~~

B. ~~Every boat or other watercraft and their motors, and any firearm, crossbow, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer in violation of this section, shall be forfeited to the Commonwealth, and upon being condemned as forfeited in proceedings under Chapter 22 (§ 19.2-369 et seq.) of Title 19.2 the proceeds of sale shall be disposed of according to law.~~

§ 30-126. Violation of chapter; civil penalty.

In addition to any other fine or penalty provided by law, ~~any money or other thing of value derived by a legislator from a violation of §§ 30-103 through 30-108 shall be forfeited and,~~ in the event of a knowing violation, there may also be imposed a civil penalty in an amount equal to the amount of money or thing of value forfeited to the Commonwealth. If the thing of value received by the legislator in violation of this chapter should enhance in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of ~~forfeiture~~ the civil penalty.

§ 46.2-1605. Vehicles repaired or rebuilt for highway use; examinations; branding of titles.

Each salvage vehicle that has been repaired or rebuilt for use on the highways shall be examined by the Department prior to the issuance of a title for the vehicle. The examination shall include a review of all documentation for the parts and labor used for the repair of the salvage vehicle and a verification of the vehicle's identification number, confidential number, and odometer reading. The Commissioner shall ensure that, in scheduling and performing examinations of salvage vehicles under this section, single vehicles owned by private owner-operators are afforded no lower priority than examinations of vehicles owned by motor vehicle dealers, salvage dealers, demolishers, rebuilders, salvage pools, or vehicle removal operators. The Commissioner may charge an appropriate fee, not to exceed \$25 per vehicle, for the examination of repaired and rebuilt vehicles.

Any salvage vehicle whose vehicle identification number or confidential number has been altered, is missing, or appears to have been tampered with may be impounded by the Department until completion

674 of an investigation by the Department. The vehicle may not be moved, sold, or tampered with until the
675 completion of this investigation. Upon completion of an investigation by the Department, if the vehicle
676 identification number is found to be missing or altered, a new vehicle identification number may be
677 issued by the Department. If the vehicle is found to be a stolen vehicle and its owner can be
678 determined, the vehicle shall be returned to him. If the owner cannot be determined or located and the
679 person seeking to title the vehicle has been convicted of a violation of § 46.2-1074 or § 46.2-1075, the
680 vehicle shall be deemed forfeited to the Commonwealth *and said forfeiture shall proceed in accordance*
681 *with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. Each such vehicle shall be sold at public auction*
682 *and the proceeds thereof, after satisfaction of any liens, returned to the state treasury for use by the*
683 *Department.* If the Department's examination of a repaired or rebuilt salvage vehicle indicates no
684 irregularities, a title and registration may be issued for the vehicle upon application therefor to the
685 Department by the owner of the salvage vehicle. The title issued by the Department and any subsequent
686 title thereafter issued for the repaired or rebuilt vehicle shall be permanently branded to indicate that it
687 is a repaired or rebuilt vehicle. All repaired and rebuilt vehicles shall be subject to all safety equipment
688 requirements provided by law. No title or registration shall be issued by the Department for any vehicle
689 for which a nonrepairable certificate has ever been issued.

690 § 58.1-2274. Unlawful importing, transportation, delivery, storage or sale of fuel; sale to enforce
691 assessment.

692 A. Upon the discovery of any fuel illegally imported into, or illegally transported, delivered, stored
693 or sold in, the Commonwealth, the Commissioner shall order the tank or other storage receptacle in
694 which the fuel is located to be seized and locked or sealed until the tax, penalties and interest levied
695 under this chapter are assessed and paid.

696 B. If the assessment for such tax is not paid within thirty days, the Commissioner is hereby
697 authorized, in addition to the other remedies authorized in this chapter, to sell such fuel and use the
698 proceeds of such sale to satisfy the assessment due, with any funds which exceed the assessment and
699 costs of the sale being returned to the owner of the fuel.

700 C. All fuel and any property, tangible or intangible, which may be found upon the person or in any
701 vehicle which such person is using, including the vehicle itself, to aid the person in the transportation or
702 sale of illegally transported, delivered, stored, sold, imported or acquired fuel, and any property found in
703 the immediate vicinity of any place where such illegally transported, delivered, stored, sold, imported or
704 acquired fuel may be located, including motor vehicles, tanks, and other storage devices, used to aid in
705 the illegal transportation or sale of such fuel, shall be deemed contraband and shall be forfeited to the
706 Commonwealth.

707 D. Any efforts by the Department to effect the forfeiture allowed under the authority of this section
708 shall be governed by Chapter 22 (~~§ 19.2-369 et seq.~~) of Title 19.2, *mutatis mutandis*. However, such
709 procedures shall not be applicable to the Department's tax collection powers and the use of such powers
710 to enforce a tax liability against the illegally transported, delivered, stored, sold, imported or acquired
711 fuel.

712 2. That §§ 4.1-340 through 4.1-347, Chapter 22 (§ 19.2-369 et seq.) of Title 19.2, §§ 28.2-319,
713 28.2-407, 29.1-407, 29.1-524, 46.2-867 and 46.2-1087 of the Code of Virginia are repealed.