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HOUSE BILL NO. 2182

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 1-404, 2.2-221, 2.2-507, 2.2-509.1, 2.2-1119, 2.2-2696, 2.2-2818, 2.2-2905, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-3802, 2.2-4024, 2.2-4345, 3.2-1010, 4.1-100, 4.1-103, 4.1-103.1, 4.1-111, 4.1-119, 4.1-120, 4.1-121, 4.1-124, 4.1-128, 4.1-209.1, 4.1-212.1, 4.1-325, 9.1-101, 9.1-102, 9.1-400, 9.1-500, 9.1-801, 15.2-2288.3, 18.2-246.6, 18.2-308, 18.2-371.2, 19.2-386.21, 19.2-389, 22.1-206, 23-7.4:1, 32.1-357, 33.1-252, 48-17.1, 51.1-212, 58.1-3, 58.1-3651, 59.1-148.3, 65.2-402, and 65.2-402.1 of the Code of Virginia and to amend and reenact the fourth enactment of Chapters 870 and 932 of the Acts of Assembly of 2007; to amend the Code of Virginia by adding in Chapter 22 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2336 through 2.2-2349; and to repeal §§ 4.1-101 and 4.1-102 of the Code of Virginia, relating to alcoholic beverage control; creation of the Virginia Alcoholic Beverage Control Authority.

Patron—Albo

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-404, 2.2-221, 2.2-507, 2.2-509.1, 2.2-1119, 2.2-2696, 2.2-2818, 2.2-2905, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-3802, 2.2-4024, 2.2-4345, 3.2-1010, 4.1-100, 4.1-103, 4.1-103.1, 4.1-111, 4.1-119, 4.1-120, 4.1-121, 4.1-124, 4.1-128, 4.1-209.1, 4.1-212.1, 4.1-325, 9.1-101, 9.1-102, 9.1-400, 9.1-500, 9.1-801, 15.2-2288.3, 18.2-246.6, 18.2-308, 18.2-371.2, 19.2-386.21, 19.2-389, 22.1-206, 23-7.4:1, 32.1-357, 33.1-252, 48-17.1, 51.1-212, 58.1-3, 58.1-3651, 59.1-148.3, 65.2-402, and 65.2-402.1 of the Code of Virginia and to amend and reenact the fourth enactment of Chapters 870 and 932 of the Acts of Assembly of 2007 and that the Code of Virginia is amended by adding in Chapter 22 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2336 through 2.2-2349, as follows:

§ 1-404. Licensing sale of mixed alcoholic beverages on lands ceded to or owned by United States.

The Virginia Alcoholic Beverage Control Board Authority may license the sale of mixed alcoholic beverages as defined in Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 at places primarily engaged in the sale of meals on lands ceded by the Commonwealth to the United States or owned by the government of the United States or any agency thereof provided that such lands are used as ports of entry or egress to and from the United States, and provided that such lands lie within or partly within the boundaries of any county in this Commonwealth which permits the lawful dispensing of mixed alcoholic beverages. The Board is hereby authorized to adopt rules and regulations governing the sale of such spirits, and to fix the fees for such licenses, within the limits fixed by general law.

§ 2.2-221. Position established; agencies for which responsible.

The position of Secretary of Public Safety (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: ~~Department of Virginia~~ Alcoholic Beverage Control Authority, Department of Corrections, Department of Juvenile Justice, Department of Correctional Education, Department of Criminal Justice Services, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of Military Affairs, Department of Veterans Services, Virginia Veterans Services Foundation, Department of State Police, Department of Fire Programs and the Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity.

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59 The soil and water conservation district directors or districts may request legal advice from local, public,
60 or private sources; however, upon request of the soil and water conservation district directors or districts,
61 the Attorney General shall provide legal service in civil matters for such district directors or districts.

62 B. The Attorney General may represent personally or through one of his assistants any of the
63 following persons who are made defendant in any civil action for damages arising out of any matter
64 connected with their official duties:

- 65 1. Members, agents or employees of the *Virginia* Alcoholic Beverage Control ~~Board~~ *Authority*;
- 66 2. Agents inspecting or investigators appointed by the State Corporation Commission;
- 67 3. Agents, investigators, or auditors employed by the Department of Taxation;
- 68 4. Members, agents or employees of the State Board of Behavioral Health and Developmental
69 Services, the Department of Behavioral Health and Developmental Services, the State Board of Health,
70 the State Department of Health, the Department of General Services, the State Board of Social Services,
71 the Department of Social Services, the State Board of Corrections, the Department of Corrections, the
72 State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the
73 Department of Agriculture and Consumer Services;
- 74 5. Persons employed by the Commonwealth Transportation Board;
- 75 6. Persons employed by the Commissioner of Motor Vehicles;
- 76 7. Persons appointed by the Commissioner of Marine Resources;
- 77 8. Police officers appointed by the Superintendent of State Police;
- 78 9. Conservation police officers appointed by the Department of Game and Inland Fisheries;
- 79 10. Third impartial panel members appointed to hear a teacher's grievance pursuant to § 22.1-312;
- 80 11. Staff members or volunteers participating in a court-appointed special advocate program pursuant
81 to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
- 82 12. Any emergency medical service agency that is a licensee of the Department of Health in any
83 civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for
84 alleged errors or omissions in the discharge of his court-appointed duties; or
- 85 13. Conservation officers of the Department of Conservation and Recreation.

86 Upon request of the affected individual, the Attorney General may represent personally or through
87 one of his assistants any basic or advanced emergency medical care attendant or technician possessing a
88 valid certificate issued by authority of the State Board of Health in any civil matter in which a defense
89 of immunity from liability is raised pursuant to § 8.01-225.

90 C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal
91 service to be rendered by him or one of his assistants, he may employ special counsel for this purpose,
92 whose compensation shall be fixed by the Attorney General. The compensation for such special counsel
93 shall be paid out of the funds appropriated for the administration of the board, commission, division or
94 department being represented or whose members, officers, inspectors, investigators, or other employees
95 are being represented pursuant to this section. Notwithstanding any provision of this section to the
96 contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties
97 in which it, or any justice, is a party.

98 § 2.2-509.1. Powers of investigators; enforcement of certain tobacco laws.

99 Investigators with the Office of the Attorney General as designated by the Attorney General shall be
100 authorized to seize cigarettes as defined in § 3.2-4200, which are sold, possessed, distributed,
101 transported, imported, or otherwise held in violation of § 3.2-4207 or 58.1-1037. In addition, such
102 investigators shall be authorized to accompany and participate with special agents of the *Virginia*
103 Alcoholic Beverage Control ~~Board~~ *Authority* or other law-enforcement officials engaging in an
104 enforcement action under § 3.2-4207 or 58.1-1037.

105 § 2.2-1119. Cases in which purchasing through Division not mandatory.

106 A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies and
107 nonprofessional services through the Division shall not be mandatory in the following cases:

- 108 1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor
109 and materials;
- 110 2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use
111 of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by
112 state funds;
- 113 3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be
114 considered perishable within the meaning of this subdivision, unless so classified by the Division;
- 115 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however,
116 this exception may include, office stationery and supplies, office equipment, janitorial equipment and
117 supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in
118 writing by the Division;
- 119 5. Materials, equipment and supplies needed by the *Virginia* Alcoholic Beverage Control ~~Board~~
120 *Authority*; however, this exception may include, office stationery and supplies, office equipment,

janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;

7. Printing of the records of the Supreme Court; and

8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.

B. Telecommunications and information technology goods and services of every description shall be procured as provided by § 2.2-2012.

Article 10.

Virginia Alcoholic Beverage Control Authority.

§ 2.2-2336. *Short title; definitions; declaration of public purpose; Authority created.*

A. This article shall be known and may be cited as the "Virginia Alcoholic Beverage Control Authority Act of 2011."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Alcoholic Beverage Control Authority.

"Board" means the board of directors of the Authority.

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

C. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of alcoholic beverages in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth.

D. To achieve the objective of subsection C, there is hereby created a political subdivision of the Commonwealth to be known as the Virginia Alcoholic Beverage Control Authority (the Authority). The Authority's exercise of powers and duties conferred by this article and Title 4.1 shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent. The Authority is vested with control of the possession, sale, transportation, distribution, and delivery of alcoholic beverages in the Commonwealth, with plenary power to prescribe regulations and conditions under which alcoholic beverages are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth.

E. Nothing contained in this article shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any other law of the Commonwealth, and this article supersedes all other laws in conflict herewith and is cumulative to such powers.

F. The provisions of this article shall be liberally construed to accomplish the purposes of this article and Title 4.1.

§ 2.2-2337. *Board of directors; membership; terms; compensation.*

A. The Authority shall be governed by a board of directors consisting of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of five years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 2.2-2339.

B. Two directors shall be appointed for terms of four years, two for terms of three years, and one for a term of two years, from the effective date of their appointment; and thereafter the terms of members of the Board shall be six years. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.

C. The Board shall elect from its membership a chairman and a vice-chairman, and shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Board may also form committees and

182 advisory councils, which may include representatives who are not members of the Board, to undertake
183 more extensive study and discussion of the issues before the Board. A majority of the Board shall
184 constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership
185 shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

186 D. Members of the Board shall receive \$50 for each day or part thereof spent in the performance of
187 their duties and in addition shall be reimbursed for their reasonable expenses incurred therein.

188 E. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
189 shall apply to the members of the Board, the Chief Executive Officer, and the employees of the
190 Authority.

191 § 2.2-2338. Appointment, salary and powers of Chief Executive Officer.

192 A. The Authority shall be under the immediate supervision and direction of the Chief Executive
193 Officer. The Board shall appoint the Chief Executive Officer, who shall not be a member of the Board,
194 and who holds, at a minimum, a baccalaureate degree in business or a related field of study and
195 possesses a minimum of five years of demonstrated experience or expertise in the direct management,
196 supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive a salary
197 as determined by the Board, including any performance bonuses or incentives as the Board deems
198 advisable. The Chief Executive Officer shall be subject to a background check in accordance with
199 § 2.2-2339. The Chief Executive Officer shall (i) serve at the pleasure of the Board, (ii) carry out such
200 of the powers and duties conferred upon him by the Board, and (iii) meet performance measures or
201 targets set by the Board.

202 B. The Chief Executive Officer shall devote his full time to the performance of his official duties and
203 shall not be engaged in any other profession or occupation.

204 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in
205 accordance with this article and Title 4.1.

206 D. The Chief Executive Officer shall:

207 1. Exercise and perform such powers and duties as may be delegated to him by the Board or as may
208 be conferred or imposed upon him by law;

209 2. Employ or retain such agents or employees subordinate to the Chief Executive Officer as may be
210 necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the
211 Board's approval;

212 3. Keep a true and full record of all proceedings of the Authority and preserve at the Authority's
213 general office all books, documents and papers of the Authority; and

214 4. Make recommendations to the Board for legislative and regulatory changes.

215 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the
216 Chief Executive Officer shall make any contributions to a candidate for office or office holder at the
217 local or state level, or cause such a contribution to be made on his behalf.

218 § 2.2-2339. Background investigations of Board members and Chief Executive Officer.

219 All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a
220 condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation
221 for a National Criminal Records search and to the Department of State Police for a Virginia Criminal
222 History Records search. The Department of State Police shall be reimbursed by the Authority for the
223 cost of investigations conducted pursuant to this section. No person who has been convicted of a felony
224 or of a crime involving moral turpitude shall be appointed to the Board or appointed by the Board.

225 § 2.2-2340. Financial interests of Board, employees and family members prohibited.

226 No Board member or employee of the Authority, and no spouse or immediate family member of any
227 such member or employee shall have any financial interest, direct or indirect, in any licensee subject to
228 the provisions of Title 4.1 or in any entity that has submitted an application for a license under Chapter
229 2 (§ 4.1-200 et seq.) of Title 4.1. No Board member of the Authority and no spouse or immediate family
230 member of a Board member shall make any contribution to a candidate for office or office holders on
231 the local or state level, or cause a contribution to be made on their behalf.

232 § 2.2-2341. Powers of Authority.

233 The Authority is granted all powers necessary or convenient for the carrying out of its statutory
234 purposes, including the power to:

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

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

237 3. Acquire, purchase, hold, use, lease or otherwise dispose of any property, real, personal or mixed,
238 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
239 Authority, and to lease as lessee, any property, real, personal or mixed, tangible or intangible, or any
240 interest therein, at such annual rental and on such terms and conditions as may be determined by the
241 Board; and to lease as lessor to any person, any property, real, personal or mixed, tangible or
242 intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially
243 completed, at such annual rental and on such terms and conditions as may be determined by the Board;

and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

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

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

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

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

8. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed;

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

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

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

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

13. Do all acts and things necessary or convenient to carry out the powers granted to it by law, and perform any act or carry out any function not inconsistent with state law that may be useful in carrying out the provisions of this article and Title 4.1.

§ 2.2-2342. Employees of the Authority.

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The Board shall develop and adopt policies and procedures that will afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants and shall prohibit discrimination because of race, religion, color, sex or national origin.

B. Notwithstanding any other provision of law, the Authority shall give preference to employees of the former Department of Alcoholic Beverage Control. The Authority shall issue a written notice to all persons whose employment at the former Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the former Department of Alcoholic Beverage Control who: (i) elects not to become employed by the Authority and who is not reemployed by any department, institution, board, commission or agency of the Commonwealth; (ii) is not offered the opportunity to transfer to employment by the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is

305 transferred to the Authority as a result of this article and who is a member of any plan for providing
306 health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.), shall continue to be a member of
307 such health insurance plan under the same terms and conditions as if no transfer had occurred.

308 D. Notwithstanding any other provision of law to the contrary, any person whose employment is
309 transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement
310 System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title
311 51.1, shall continue to be a member of the Virginia Retirement System or other such authorized
312 retirement plan under the same terms and conditions as if no transfer had occurred.

313 § 2.2-2343. Moneys of Authority.

314 All moneys of the Authority, from whatever source derived, shall be paid in accordance with
315 § 4.1-116.

316 § 2.2-2344. Forms of accounts and records; audit; annual report.

317 The accounts and records of the Authority showing the receipt and disbursement of funds from
318 whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of
319 Public Accounts or his legally authorized representatives shall annually examine the accounts and books
320 of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on
321 or before November 1 of each year. Such report shall contain the audited annual financial statements of
322 the Authority for the year ending the previous June 30.

323 § 2.2-2345. Public purpose.

324 The exercise of the powers granted by this article shall be in all respects for the benefit of the
325 inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, and
326 convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be
327 distributable to, any private individual, except that reasonable compensation may be paid for services
328 rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred
329 that are in conformity with said purposes, and no private individual shall be entitled to share in the
330 distribution of any of the corporate assets on dissolution of the Authority.

331 § 2.2-2346. Leases of property.

332 The Authority shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations and
333 guidelines of the Division of Engineering and Buildings in relation to leases of real property into which
334 it enters.

335 § 2.2-2347. Exemptions from taxes or assessments.

336 The exercise of the powers granted by this article shall be in all respects for the benefit of the
337 people of the Commonwealth, for the increase of their commerce and prosperity, and for the
338 improvement of their living conditions, and as the undertaking of activities in the furtherance of the
339 purposes of the Authority constitutes the performance of essential governmental functions, the Authority
340 shall not be required to pay any taxes or assessments upon any property acquired or used by the
341 Authority under the provisions of this article or upon the income therefrom, including sales and use
342 taxes on the tangible personal property used in the operations of the Authority. The exemption granted
343 in this section shall not be construed to extend to persons conducting on the premises of any property of
344 the Authority businesses for which local or state taxes would otherwise be required.

345 § 2.2-2348. Exemption of Authority from personnel and procurement procedures; information
346 systems.

347 The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public
348 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power
349 conferred under this article or Title 4.1. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.)
350 apply to the Authority in the exercise of any power conferred under this article or Title 4.1.

351 § 2.2-2349. Reversion to the Commonwealth.

352 Upon dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall
353 revert to the Commonwealth.

354 § 2.2-2696. Substance Abuse Services Council.

355 A. The Substance Abuse Services Council (the Council) is established as an advisory council, within
356 the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council is
357 to advise and make recommendations to the Governor, the General Assembly, and the State Board of
358 Behavioral Health and Developmental Services on broad policies and goals and on the coordination of
359 the Commonwealth's public and private efforts to control substance abuse, as defined in § 37.2-100.

360 B. The Council shall consist of 30 members. Four members of the House of Delegates shall be
361 appointed by the Speaker of the House of Delegates, in accordance with the principles of proportional
362 representation contained in the Rules of the House of Delegates, and two members of the Senate shall
363 be appointed by the Senate Committee on Rules. The Governor shall appoint one member representing
364 the Virginia Sheriffs' Association, one member representing the Virginia Drug Courts Association, one
365 member representing the Substance Abuse Certification Alliance of Virginia, two members representing
366 the Virginia Association of Community Services Boards, and two members representing statewide

consumer and advocacy organizations. The Council shall also include the Commissioner of Behavioral Health and Developmental Services; the Commissioner of Health; the Commissioner of the Department of Motor Vehicles; the Superintendent of Public Instruction; the Directors of the Departments of Juvenile Justice, Corrections, Criminal Justice Services, Medical Assistance Services, and Social Services; the Chief ~~Operating~~ *Executive* Officer of the ~~Department of Virginia~~ *Department of Virginia* Alcoholic Beverage ~~Control Authority~~; the Executive Director of the Governor's Office for Substance Abuse Prevention or his designee; the Executive Director of the Virginia Foundation for Healthy Youth or his designee; the Executive Director of the Commission on the Virginia Alcohol Safety Action Program or his designee; and the chairs or their designees of the Virginia Association of Drug and Alcohol Programs, the Virginia Association of Alcoholism and Drug Abuse Counselors, and the Substance Abuse Council and the Prevention Task Force of the Virginia Association of Community Services Boards.

C. Appointments of legislative members and heads of agencies or representatives of organizations shall be for terms consistent with their terms of office. All other appointments of nonlegislative members shall be for terms of three years, except an appointment to fill a vacancy, which shall be for the unexpired term. The Governor shall appoint a chairman from among the members.

No person shall be eligible to serve more than two successive terms, provided that a person appointed to fill a vacancy may serve two full successive terms.

D. The Council shall meet at least four times annually and more often if deemed necessary or advisable by the chairman.

E. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the cost of expenses shall be provided by the Department of Behavioral Health and Developmental Services.

F. The duties of the Council shall be *to*:

1. ~~To recommend~~ *Recommend* policies and goals to the Governor, the General Assembly, and the State Board of Behavioral Health and Developmental Services;

2. ~~To coordinate~~ *Coordinate* agency programs and activities, ~~to~~ prevent duplication of functions, and ~~to~~ combine all agency plans into a comprehensive interagency state plan for substance abuse services;

3. ~~To review~~ *Review* and comment on annual state agency budget requests regarding substance abuse and on all applications for state or federal funds or services to be used in substance abuse programs;

4. ~~To define~~ *Define* responsibilities among state agencies for various programs for persons with substance abuse and ~~to~~ encourage cooperation among agencies; and

5. ~~To make~~ *Make* investigations, issue annual reports to the Governor and the General Assembly, and make recommendations relevant to substance abuse upon the request of the Governor.

G. Staff assistance shall be provided to the Council by the Office of Substance Abuse Services of the Department of Behavioral Health and Developmental Services.

§ 2.2-2818. Health and related insurance for state employees.

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

In order to be considered a screening mammogram for which coverage shall be made available under

428 this section:

429 a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his
430 licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance
431 organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified
432 radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery
433 and certified by the American Board of Radiology or an equivalent examining body. A copy of the
434 mammogram report shall be sent or delivered to the health care practitioner who ordered it;

435 b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia
436 Department of Health in its radiation protection regulations; and

437 c. The mammography film shall be retained by the radiologic facility performing the examination in
438 accordance with the American College of Radiology guidelines or state law.

439 2. Include coverage for postpartum services providing inpatient care and a home visit or visits that
440 shall be in accordance with the medical criteria, outlined in the most current version of or an official
441 update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the
442 American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic
443 Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be
444 provided incorporating any changes in such Guidelines or Standards within six months of the publication
445 of such Guidelines or Standards or any official amendment thereto.

446 3. Include an appeals process for resolution of written complaints concerning denials or partial
447 denials of claims that shall provide reasonable procedures for resolution of such written complaints and
448 shall be published and disseminated to all covered state employees. The appeals process shall include a
449 separate expedited emergency appeals procedure that shall provide resolution within one business day of
450 receipt of a complaint concerning situations requiring immediate medical care. For appeals involving
451 adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more impartial
452 health entities to review such decisions. Impartial health entities may include medical peer review
453 organizations and independent utilization review companies. The Department shall adopt regulations to
454 assure that the impartial health entity conducting the reviews has adequate standards, credentials and
455 experience for such review. The impartial health entity shall examine the final denial of claims to
456 determine whether the decision is objective, clinically valid, and compatible with established principles
457 of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of
458 fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if
459 consistent with law and policy.

460 Prior to assigning an appeal to an impartial health entity, the Department shall verify that the
461 impartial health entity conducting the review of a denial of claims has no relationship or association
462 with (i) the covered employee; (ii) the treating health care provider, or any of its employees or affiliates;
463 (iii) the medical care facility at which the covered service would be provided, or any of its employees or
464 affiliates; or (iv) the development or manufacture of the drug, device, procedure or other therapy that is
465 the subject of the final denial of a claim. The impartial health entity shall not be a subsidiary of, nor
466 owned or controlled by, a health plan, a trade association of health plans, or a professional association
467 of health care providers. There shall be no liability on the part of and no cause of action shall arise
468 against any officer or employee of an impartial health entity for any actions taken or not taken or
469 statements made by such officer or employee in good faith in the performance of his powers and duties.

470 4. Include coverage for early intervention services. For purposes of this section, "early intervention
471 services" means medically necessary speech and language therapy, occupational therapy, physical therapy
472 and assistive technology services and devices for dependents from birth to age three who are certified by
473 the Department of Behavioral Health and Developmental Services as eligible for services under Part H
474 of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early
475 intervention services for the population certified by the Department of Behavioral Health and
476 Developmental Services shall mean those services designed to help an individual attain or retain the
477 capability to function age-appropriately within his environment, and shall include services that enhance
478 functional ability without effecting a cure.

479 For persons previously covered under the plan, there shall be no denial of coverage due to the
480 existence of a preexisting condition. The cost of early intervention services shall not be applied to any
481 contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the
482 insured during the insured's lifetime.

483 5. Include coverage for prescription drugs and devices approved by the United States Food and Drug
484 Administration for use as contraceptives.

485 6. Not deny coverage for any drug approved by the United States Food and Drug Administration for
486 use in the treatment of cancer on the basis that the drug has not been approved by the United States
487 Food and Drug Administration for the treatment of the specific type of cancer for which the drug has
488 been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type
489 of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a healthcare professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated

551 for cause. Such treatment shall, at the covered employee's option, continue through the provision of
552 postpartum care directly related to the delivery.

553 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue
554 rendering health services to any covered employee who is determined to be terminally ill (as defined
555 under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of
556 participation, except when a provider is terminated for cause. Such treatment shall, at the covered
557 employee's option, continue for the remainder of the employee's life for care directly related to the
558 treatment of the terminal illness.

559 A provider who continues to render health care services pursuant to this subdivision shall be
560 reimbursed in accordance with the carrier's agreement with such provider existing immediately before
561 the provider's termination of participation.

562 15. Include coverage for patient costs incurred during participation in clinical trials for treatment
563 studies on cancer, including ovarian cancer trials.

564 The reimbursement for patient costs incurred during participation in clinical trials for treatment
565 studies on cancer shall be determined in the same manner as reimbursement is determined for other
566 medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles,
567 copayments and coinsurance factors that are no less favorable than for physical illness generally.

568 For purposes of this subdivision:

569 "Cooperative group" means a formal network of facilities that collaborate on research projects and
570 have an established NIH-approved peer review program operating within the group. "Cooperative group"
571 includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer
572 Institute Community Clinical Oncology Program.

573 "FDA" means the Federal Food and Drug Administration.

574 "Multiple project assurance contract" means a contract between an institution and the federal
575 Department of Health and Human Services that defines the relationship of the institution to the federal
576 Department of Health and Human Services and sets out the responsibilities of the institution and the
577 procedures that will be used by the institution to protect human subjects.

578 "NCI" means the National Cancer Institute.

579 "NIH" means the National Institutes of Health.

580 "Patient" means a person covered under the plan established pursuant to this section.

581 "Patient cost" means the cost of a medically necessary health care service that is incurred as a result
582 of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not
583 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the
584 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research
585 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

586 Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be
587 provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such
588 treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a
589 Phase I clinical trial.

590 The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

591 a. The National Cancer Institute;

592 b. An NCI cooperative group or an NCI center;

593 c. The FDA in the form of an investigational new drug application;

594 d. The federal Department of Veterans Affairs; or

595 e. An institutional review board of an institution in the Commonwealth that has a multiple project
596 assurance contract approved by the Office of Protection from Research Risks of the NCI.

597 The facility and personnel providing the treatment shall be capable of doing so by virtue of their
598 experience, training, and expertise.

599 Coverage under this subdivision shall apply only if:

600 (1) There is no clearly superior, noninvestigational treatment alternative;

601 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will
602 be at least as effective as the noninvestigational alternative; and

603 (3) The patient and the physician or health care provider who provides services to the patient under
604 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to
605 procedures established by the plan.

606 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a
607 covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered
608 employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized
609 guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours
610 referenced when the attending physician, in consultation with the covered employee, determines that a
611 shorter hospital stay is appropriate.

612 17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

In no case, however, shall coverage for mental disorders provided pursuant to this section be diminished or reduced below the coverage in effect for such disorders on January 1, 1999.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee,

674 or agency shall use or authorize the use of such trust funds for any purpose other than as provided in
675 law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight
676 of the health insurance fund.

677 D. For the purposes of this section:

678 "Part-time state employees" means classified or similarly situated employees in legislative, executive,
679 judicial or independent agencies who are compensated on a salaried basis and work at least 20 hours,
680 but less than 32 hours, per week.

681 "Peer-reviewed medical literature" means a scientific study published only after having been critically
682 reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal
683 that has been determined by the International Committee of Medical Journal Editors to have met the
684 Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical
685 literature does not include publications or supplements to publications that are sponsored to a significant
686 extent by a pharmaceutical manufacturing company or health carrier.

687 "Standard reference compendia" means:

- 688 1. American Hospital Formulary Service - Drug Information;
- 689 2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
- 690 3. Elsevier Gold Standard's Clinical Pharmacology.

691 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in
692 § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301
693 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and
694 domestic relations, and district courts of the Commonwealth; ~~and~~ interns and residents employed by the
695 School of Medicine and Hospital of the University of Virginia; ~~and~~ interns, residents, and employees of
696 the Virginia Commonwealth University Health System Authority as provided in § 23-50.16:24; *and*
697 *employees of the Virginia Alcoholic Beverage Control Authority as provided in § 2.2-2342.*

698 E. Provisions shall be made for retired employees to obtain coverage under the above plan,
699 including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be
700 obligated to, pay all or any portion of the cost thereof.

701 F. Any self-insured group health insurance plan established by the Department of Human Resource
702 Management that utilizes a network of preferred providers shall not exclude any physician solely on the
703 basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets
704 the plan criteria established by the Department.

705 G. The plan shall include, in each planning district, at least two health coverage options, each
706 sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be
707 available in each planning district shall be a high deductible health plan that would qualify for a health
708 savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

709 In each planning district that does not have an available health coverage alternative, the Department
710 shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to
711 provide coverage under the plan.

712 This subsection shall not apply to any state agency authorized by the Department to establish and
713 administer its own health insurance coverage plan separate from the plan established by the Department.

714 H. Any self-insured group health insurance plan established by the Department of Human Resource
715 Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary
716 to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least
717 annually, and updated as necessary in consultation with and with the approval of a pharmacy and
718 therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists,
719 (ii) physicians, and (iii) other health care providers.

720 If the plan maintains one or more drug formularies, the plan shall establish a process to allow a
721 person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs
722 in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable
723 investigation and consultation with the prescriber, the formulary drug is determined to be an
724 inappropriate therapy for the medical condition of the person. The plan shall act on such requests within
725 one business day of receipt of the request.

726 Any plan established in accordance with this section shall be authorized to provide for the selection
727 of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are
728 delivered to the covered person's address by mail, common carrier, or delivery service. As used in this
729 subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the
730 Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive
731 drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery
732 service.

733 I. Any plan established in accordance with this section requiring preauthorization prior to rendering
734 medical treatment shall have personnel available to provide authorization at all times when such
735 preauthorization is required.

J. Any plan established in accordance with this section shall provide to all covered employees written notice of any benefit reductions during the contract period at least 30 days before such reductions become effective.

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only with that employee's express written consent. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the

797 nonparticipating provider on the explanation of benefits statement.

798 R. The Department of Human Resource Management shall report annually, by November 30 of each
799 year in which a mandate is imposed under the provisions of § 2.2-2818.2, to the Special Advisory
800 Commission on Mandated Health Insurance Benefits established pursuant to Article 2 (§ 2.2-2503 et
801 seq.) of Chapter 25, on cost and utilization information for each of the mandated benefits set forth in
802 subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan
803 established pursuant to this section. The report shall be in the same detail and form as required of
804 reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine
805 the financial impact, including the costs and benefits, of the particular mandated benefit.

806 § 2.2-2905. Certain officers and employees exempt from chapter.

807 The provisions of this chapter shall not apply to:

808 1. Officers and employees for whom the Constitution specifically directs the manner of selection;

809 2. Officers and employees of the Supreme Court and the Court of Appeals;

810 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
811 house thereof is required or not;

812 4. Officers elected by popular vote or by the General Assembly or either house thereof;

813 5. Members of boards and commissions however selected;

814 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
815 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
816 notaries public;

817 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
818 special inquiries, investigations, or examinations on its behalf;

819 8. The presidents, and teaching and research staffs of state educational institutions;

820 9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;

821 10. Student employees in institutions of learning, and patient or inmate help in other state
822 institutions;

823 11. Upon general or special authorization of the Governor, laborers, temporary employees and
824 employees compensated on an hourly or daily basis;

825 12. County, city, town and district officers, deputies, assistants and employees;

826 13. The employees of the Virginia Workers' Compensation Commission;

827 14. The officers and employees of the Virginia Retirement System;

828 15. Employees whose positions are identified by the State Council of Higher Education and the
829 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
830 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
831 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
832 Library of Virginia, and approved by the Director of the Department of Human Resource Management
833 as requiring specialized and professional training;

834 16. Employees of the State Lottery Department;

835 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;

836 18. Employees of the Virginia Commonwealth University Health System Authority;

837 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
838 such employees shall be subject to the review and approval of the Board of Visitors of the University of
839 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
840 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
841 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

842 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
843 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
844 assistant for policy or administration. An employee serving in either one of these two positions shall be
845 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve
846 in this exempt capacity;

847 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
848 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

849 22. Officers and employees of the Virginia Port Authority;

850 23. Employees of the Virginia College Savings Plan;

851 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
852 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to
853 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
854 (§ 2.2-3000 et seq.);

855 25. The Director of the Virginia Office for Protection and Advocacy;

856 26. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as
857 state employees for purposes of participation in the Virginia Retirement System, health insurance, and
858 all other employee benefits offered by the Commonwealth to its classified employees;

27. Employees of the Virginia Indigent Defense Commission; ~~and~~
 28. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23-232; ~~and~~

29. *The Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority.*

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the *Virginia Alcoholic Beverage Control Board Authority*, the State Lottery Department, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management or to such personnel of any local public body, including local school boards as are responsible for conducting such investigations in confidence. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i) Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; (v) committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vi) auditors, appointed by the local governing body of any county, city or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department or program of such body. Records of completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence received or maintained by the Office or its agents in connection with specific complaints or investigations, and records of communications between employees and agents of the Office and its clients or prospective clients concerning specific complaints, investigations or cases. Upon the conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may

920 not at any time release the identity of any complainant or person with mental illness, mental retardation,
921 developmental disabilities or other disability, unless (i) such complainant or person or his legal
922 representative consents in writing to such identification or (ii) such identification is required by court
923 order.

924 9. Information furnished in confidence to the Department of Employment Dispute Resolution with
925 respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,
926 and memoranda, correspondence and other records resulting from any such investigation, consultation or
927 mediation. However, nothing in this section shall prohibit the distribution of information taken from
928 inactive reports in a form that does not reveal the identity of the parties involved or other persons
929 supplying information.

930 10. The names, addresses and telephone numbers of complainants furnished in confidence with
931 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
932 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
933 seq.) made to a local governing body.

934 11. Records of active investigations being conducted by the Department of Criminal Justice Services
935 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),
936 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

937 12. Records furnished to or prepared by the Board of Education pursuant to subsection D of
938 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
939 unauthorized alteration, or improper administration of tests by local school board employees responsible
940 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
941 of records to (i) a local school board or division superintendent for the purpose of permitting such board
942 or superintendent to consider or to take personnel action with regard to an employee or (ii) any
943 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
944 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
945 does not compromise the security of any test mandated by the Board.

946 13. Investigator notes, and other correspondence and information, furnished in confidence with
947 respect to an active investigation conducted by or for the Board of Education related to the denial,
948 suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure
949 of records to a local school board or division superintendent for the purpose of permitting such board or
950 superintendent to consider or to take personnel action with regard to an employee. Records of completed
951 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
952 supplying information to investigators. The records disclosed shall include information regarding the
953 school or facility involved, the identity of the person who was the subject of the complaint, the nature
954 of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a
955 complaint or does not lead to corrective action, the identity of the person who was the subject of the
956 complaint may be released only with the consent of the subject person. No personally identifiable
957 information in the records regarding a current or former student shall be released except as permitted by
958 state or federal law.

959 14. Records, notes and information provided in confidence and related to an investigation by the
960 Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of
961 Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2,
962 or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that
963 has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is
964 not otherwise prohibited by law and does not reveal the identity of charging parties, complainants,
965 persons supplying information, witnesses or other individuals involved in the investigation.

966 § 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other
967 limited exemptions.

968 The following records are excluded from the provisions of this chapter but may be disclosed by the
969 custodian in his discretion, except where such disclosure is prohibited by law:

970 1. State income, business, and estate tax returns, personal property tax returns, scholastic and
971 confidential records held pursuant to § 58.1-3.

972 2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the
973 Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
974 Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any
975 political subdivision of the Commonwealth; or the president or other chief executive officer of any
976 public institution of higher education in Virginia. However, no record, which is otherwise open to
977 inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to
978 or incorporated within any working paper or correspondence.

979 As used in this subdivision:

980 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet
981 Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor

has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity; and (ii) disclosure of such confidential analyses would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of records relating to the identity of any investment held, the amount invested, or the present value of such investment.

1043 13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department
1044 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the
1045 Department not release such information.

1046 14. Financial, medical, rehabilitative and other personal information concerning applicants for or
1047 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
1048 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

1049 15. Records of the Virginia Commonwealth University Health System Authority pertaining to any of
1050 the following: an individual's qualifications for or continued membership on its medical or teaching
1051 staffs; proprietary information gathered by or in the possession of the Authority from third parties
1052 pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
1053 awarding contracts for construction or the purchase of goods or services; data, records or information of
1054 a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
1055 staffs; financial statements not publicly available that may be filed with the Authority from third parties;
1056 the identity, accounts or account status of any customer of the Authority; consulting or other reports
1057 paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the
1058 determination of marketing and operational strategies where disclosure of such strategies would be
1059 harmful to the competitive position of the Authority; and data, records or information of a proprietary
1060 nature produced or collected by or for employees of the Authority, other than the Authority's financial
1061 or administrative records, in the conduct of or as a result of study or research on medical, scientific,
1062 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
1063 governmental body or a private concern, when such data, records or information have not been publicly
1064 released, published, copyrighted or patented.

1065 16. Records of the Department of Environmental Quality, the State Water Control Board, State Air
1066 Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal
1067 environmental enforcement actions that are considered confidential under federal law and (ii)
1068 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records
1069 shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the
1070 director of the agency. This subdivision shall not be construed to prohibit the disclosure of records
1071 related to inspection reports, notices of violation, and documents detailing the nature of any
1072 environmental contamination that may have occurred or similar documents.

1073 17. As it pertains to any person, records related to the operation of toll facilities that identify an
1074 individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle
1075 enforcement system information; video or photographic images; Social Security or other identification
1076 numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone
1077 numbers; or records of the date or time of toll facility use.

1078 18. Records of the State Lottery Department pertaining to (i) the social security number, tax
1079 identification number, state sales tax number, home address and telephone number, personal and lottery
1080 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
1081 operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name,
1082 hometown, and amount won shall be disclosed.

1083 19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person
1084 regulated by the Board, where such person has tested negative or has not been the subject of a
1085 disciplinary action by the Board for a positive test result.

1086 20. Records, investigative notes, correspondence, and information pertaining to the planning,
1087 scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of
1088 Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents,
1089 employees or persons employed to perform an audit or examination of holder records.

1090 21. Records of the Virginia Department of Emergency Management or a local governing body
1091 relating to citizen emergency response teams established pursuant to an ordinance of a local governing
1092 body, to the extent that such records reveal the name, address, including e-mail address, telephone or
1093 pager numbers, or operating schedule of an individual participant in the program.

1094 22. Records of state or local park and recreation departments and local and regional park authorities
1095 to the extent such records contain information identifying a person under the age of 18 years, where the
1096 parent or legal guardian of such person has requested in writing that such information not be disclosed.
1097 However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as
1098 directory information under regulations implementing the Family Educational Rights and Privacy Act, 20
1099 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements
1100 provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent,
1101 or guardian of such person, unless the parent's parental rights have been terminated or a court of
1102 competent jurisdiction has restricted or denied such access. For records of such persons who are
1103 emancipated, the right of access may be asserted by the subject thereof.

1104 23. Records submitted for inclusion in the Statewide Alert Network administered by the Department

of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

24. Records of the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, to the extent that disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

26. Records of the Department of Corrections made confidential by § 53.1-233.

27. Records maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the record.

29. Records maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

30. *Records of the Virginia Alcoholic Beverage Control Authority to the extent such records contain (i) information of a proprietary nature gathered by or in the possession of the Authority from a private entity pursuant to a promise of confidentiality; (ii) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of any private entity; (iii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; (iv) contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; (v) consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; or (vi) the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority.*

In order for the records identified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

1. *Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;*

2. *Identifying with specificity the data or other materials for which protection is sought; and*

3. *Stating the reasons why protection is necessary.*

1166 *The Authority shall determine whether the requested exclusion from disclosure is necessary to protect*
1167 *the proprietary information, trade secrets or financial records of the private entity. The Authority shall*
1168 *make a written determination of the nature and scope of the protection to be afforded it under this*
1169 *subdivision.*

1170 § 2.2-3711. Closed meetings authorized for certain limited purposes.

1171 A. Public bodies may hold closed meetings only for the following purposes:

1172 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
1173 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
1174 officers, appointees, or employees of any public body; and evaluation of performance of departments or
1175 schools of public institutions of higher education where such evaluation will necessarily involve
1176 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
1177 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
1178 involves the teacher and some student and the student involved in the matter is present, provided the
1179 teacher makes a written request to be present to the presiding officer of the appropriate board.

1180 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
1181 involve the disclosure of information contained in a scholastic record concerning any student of any
1182 Virginia public institution of higher education or any state school system. However, any such student,
1183 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to
1184 be present during the taking of testimony or presentation of evidence at a closed meeting, if such
1185 student, parents, or guardians so request in writing and such request is submitted to the presiding officer
1186 of the appropriate board.

1187 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
1188 disposition of publicly held real property, where discussion in an open meeting would adversely affect
1189 the bargaining position or negotiating strategy of the public body.

1190 4. The protection of the privacy of individuals in personal matters not related to public business.

1191 5. Discussion concerning a prospective business or industry or the expansion of an existing business
1192 or industry where no previous announcement has been made of the business' or industry's interest in
1193 locating or expanding its facilities in the community.

1194 6. Discussion or consideration of the investment of public funds where competition or bargaining is
1195 involved, where, if made public initially, the financial interest of the governmental unit would be
1196 adversely affected.

1197 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
1198 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
1199 negotiating or litigating posture of the public body; and consultation with legal counsel employed or
1200 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
1201 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
1202 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
1203 will be commenced by or against a known party. Nothing in this subdivision shall be construed to
1204 permit the closure of a meeting merely because an attorney representing the public body is in attendance
1205 or is consulted on a matter.

1206 8. In the case of boards of visitors of public institutions of higher education, discussion or
1207 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
1208 for services or work to be performed by such institution. However, the terms and conditions of any such
1209 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
1210 person and accepted by a public institution of higher education in Virginia shall be subject to public
1211 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
1212 (i) "foreign government" means any government other than the United States government or the
1213 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
1214 created under the laws of the United States or of any state thereof if a majority of the ownership of the
1215 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
1216 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
1217 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
1218 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

1219 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum
1220 of Natural History, and The Science Museum of Virginia, discussion or consideration of matters relating
1221 to specific gifts, bequests, and grants.

1222 10. Discussion or consideration of honorary degrees or special awards.

1223 11. Discussion or consideration of tests, examinations, or other records excluded from this chapter
1224 pursuant to subdivision 4 of § 2.2-3705.1.

1225 12. Discussion, consideration, or review by the appropriate House or Senate committees of possible
1226 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
1227 filed by the member, provided the member may request in writing that the committee meeting not be

conducted in a closed meeting.

13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.5.

16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where

1289 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
1290 operational plans that could affect the value of such property, real or personal, owned or desirable for
1291 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
1292 contracts for services or work to be performed by the Authority; marketing or operational strategies
1293 where disclosure of such strategies would adversely affect the competitive position of the Authority;
1294 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications
1295 or evaluations of other employees.

1296 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
1297 the Department of Health Professions to the extent such discussions identify any practitioner who may
1298 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1299 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
1300 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
1301 by or on behalf of individuals who have requested information about, applied for, or entered into
1302 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.)
1303 of Title 23 is discussed.

1304 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created
1305 pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
1306 seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless
1307 E-911 service.

1308 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1309 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1310 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
1311 a decision or meetings of health regulatory boards or conference committees of such boards to consider
1312 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
1313 requested by either of the parties.

1314 28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of
1315 § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in
1316 § 56-557, or any independent review panel appointed to review information and advise the responsible
1317 public entity concerning such records.

1318 29. Discussion of the award of a public contract involving the expenditure of public funds, including
1319 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1320 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
1321 the public body.

1322 30. Discussion or consideration of grant or loan application records excluded from this chapter
1323 pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the
1324 Innovation and Entrepreneurship Investment Authority or a grant allocation committee appointed to
1325 advise the Innovation and Entrepreneurship Investment Authority on the grant applications.

1326 31. Discussion or consideration by the Commitment Review Committee of records excluded from
1327 this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as
1328 sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1329 32. [Expired.]

1330 33. Discussion or consideration of confidential proprietary records and trade secrets excluded from
1331 this chapter pursuant to subdivision 18 of § 2.2-3705.6.

1332 34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
1333 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets
1334 excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

1335 35. Discussion or consideration by the State Board of Elections or local electoral boards of voting
1336 security matters made confidential pursuant to § 24.2-625.1.

1337 36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
1338 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from
1339 this chapter pursuant to subdivision F 1 of § 2.2-3706.

1340 37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards
1341 Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of
1342 § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship
1343 award, review and consider scholarship applications and requests for scholarship award renewal, and
1344 cancel, rescind, or recover scholarship awards.

1345 38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter
1346 pursuant to subdivision 1 of § 2.2-3705.6.

1347 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1348 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
1349 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
1350 Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment

Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 13 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council, the Virginia National Defense Industrial Authority, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the advisory committee for veterans care centers established by the Commissioner of the Virginia Department of Veterans Services pursuant to § 2.2-2004.1 of records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.7.

44. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

45. Discussion or consideration by the Virginia Tobacco Indemnification and Community Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

46. *Discussion or consideration by the board of directors of the Virginia Alcoholic Beverage Control Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.3 or subdivision 30 of § 2.2-3705.7.*

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;

2. Which may exist in publications of general circulation;

3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;

4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;

5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;

6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, and the ~~Department of~~ Virginia Alcoholic Beverage Control Authority;

7. Maintained by the Department of State Police; the police department of the Chesapeake Bay

1412 Bridge and Tunnel Commission; police departments of cities, counties, and towns; and the campus
1413 police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et
1414 seq.) of Title 23, and that deal with investigations and intelligence gathering relating to criminal activity;
1415 and maintained by local departments of social services regarding alleged cases of child abuse or neglect
1416 while such cases are also subject to an ongoing criminal prosecution;

1417 8. Maintained by the Virginia Port Authority as provided in § 62.1-134.1 or 62.1-132.4;

1418 9. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion
1419 of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
1420 information on those subjects may be disseminated upon written request to a person engaged in the
1421 business of providing travel services or distributing travel information, provided the Virginia Tourism
1422 Authority is reasonably assured that the use of the information will be so limited;

1423 10. Maintained by the Division of Consolidated Laboratory Services of the Department of General
1424 Services and the Department of Forensic Science, which deal with scientific investigations relating to
1425 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1426 11. Maintained by the Department of Corrections that deal with investigations and intelligence
1427 gathering by persons acting under the provisions of § 53.1-16;

1428 12. Maintained by the Department of the State Internal Auditor or internal audit departments of state
1429 agencies or institutions that deal with communications and investigations relating to the State Employee
1430 Fraud, Waste and Abuse Hotline; and

1431 13. Maintained by the Department of Social Services or any local department of social services
1432 relating to public assistance fraud investigations.

1433 § 2.2-4024. Hearing officers.

1434 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over
1435 by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and
1436 maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal
1437 fact-finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to
1438 have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent.
1439 The Executive Secretary may promulgate rules necessary for the administration of the hearing officer
1440 system and shall have the authority to establish the number of hearing officers necessary to preside over
1441 administrative hearings in the Commonwealth.

1442 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1443 1. Active membership in good standing in the Virginia State Bar;

1444 2. Active practice of law for at least five years; and

1445 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In
1446 order to comply with the demonstrated requirements of the agency requesting a hearing officer, the
1447 Executive Secretary may require additional training before a hearing officer shall be assigned to a
1448 proceeding before that agency.

1449 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from
1450 the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting
1451 geographic preference and specialized training or knowledge shall be maintained by the Executive
1452 Secretary if an agency demonstrates the need.

1453 C. A hearing officer shall voluntarily disqualify himself and withdraw from any case in which he
1454 cannot accord a fair and impartial hearing or consideration, or when required by the applicable rules
1455 governing the practice of law in the Commonwealth. Any party may request the disqualification of a
1456 hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with
1457 particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded,
1458 or the applicable rule of practice requiring disqualification.

1459 The issue shall be determined not less than ~~ten~~ 10 days prior to the hearing by the Executive
1460 Secretary of the Supreme Court.

1461 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a
1462 case decision matter shall render that recommendation or conclusion within ~~ninety~~ 90 days from the date
1463 of the case decision proceeding or from a later date agreed to by the named party and the agency. If the
1464 hearing officer does not render a decision within ~~ninety~~ 90 days, then the named party to the case
1465 decision may provide written notice to the hearing officer and the Executive Secretary of the Supreme
1466 Court that a decision is due. If no decision is made within ~~thirty~~ 30 days from receipt by the hearing
1467 officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer
1468 from the hearing officer list and report the hearing officer to the Virginia State Bar for possible
1469 disciplinary action, unless good cause is shown for the delay.

1470 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after
1471 written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a
1472 decision as required by subsection D, the burden shall be on the hearing officer to show good cause for
1473 the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive

Secretary for reconsideration, followed by judicial review in accordance with this chapter.

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) the *Virginia Alcoholic Beverage Control Board Authority*, the Virginia Workers' Compensation Commission, the State Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, the Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2, or the Board of Towing and Recovery Operators under Chapter 28 (§ 46.2-2800 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in periodic training courses.

G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Game and Inland Fisheries, the Virginia Housing Development Authority, the Milk Commission and the Virginia Resources Authority pursuant to their basic laws.

§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

4. The ~~Department of~~ *Virginia Alcoholic Beverage Control Authority* for the purchase of alcoholic beverages.

5. The Department for the Aging, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by

1535 the Secretary of Education, can be realized by the Foundation and such agreements or contracts are
1536 based on competitive principles.

1537 10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as
1538 amended, of the Acts of Assembly of 1966; provided that it does not discriminate against any person on
1539 the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions,
1540 age, marital status, or disability in the procurement of goods and services.

1541 11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-5300
1542 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52
1543 (§ 15.2-5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective
1544 authorizing legislation; provided that these entities shall not discriminate against any person on the basis
1545 of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age,
1546 marital status, or disability in the procurement of goods and services.

1547 12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of
1548 Assembly of 2000; provided that it does not discriminate against any person on the basis of race, color,
1549 religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or
1550 disability in the procurement of goods and services.

1551 13. Public bodies for insurance or electric utility services if purchased through an association of
1552 which it is a member if the association was formed and is maintained for the purpose of promoting the
1553 interest and welfare of and developing close relationships with similar public bodies, provided such
1554 association has procured the insurance or electric utility services by use of competitive principles and
1555 provided that the public body has made a determination in advance after reasonable notice to the public
1556 and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally
1557 advantageous to the public. The writing shall document the basis for this determination.

1558 14. Public bodies administering public assistance and social services programs as defined in
1559 § 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services
1560 under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.2-5200 et seq.) or the
1561 Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) for goods or personal services
1562 for direct use by the recipients of such programs if the procurement is made for an individual recipient.
1563 Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted
1564 from the requirements of § 2.2-4303.

1565 15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter
1566 471, as amended, of the Acts of Assembly of 1964.

1567 B. No contract for the construction of any building or for an addition to or improvement of an
1568 existing building by any local government or subdivision of local government for which state funds of
1569 not more than \$30,000 in the aggregate or for the sum of all phases of a contract or project either by
1570 appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction
1571 shall be let except after competitive sealed bidding or after competitive negotiation as provided under of
1572 subsection D of § 2.2-4303. The procedure for the advertising for bids or for proposals and for letting of
1573 the contract shall conform, mutatis mutandis, to this chapter.

1574 § 3.2-1010. Enforcement of chapter; summons.

1575 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain
1576 Virginia Alcoholic Beverage Control Board Authority members, may enforce the provisions of this
1577 chapter and the regulations adopted hereunder as well as those who are so designated by the
1578 Commissioner. Those designated by the Commissioner may issue a summons to any person who violates
1579 any provision of this chapter to appear at a time and place to be specified in such summons.

1580 § 4.1-100. Definitions.

1581 As used in this title unless the context requires a different meaning:

1582 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
1583 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic
1584 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
1585 formulas approved by the government of the United States.

1586 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
1587 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
1588 by inhalation.

1589 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
1590 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,
1591 and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being
1592 consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be
1593 considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
1594 according to the order in which they are set forth in this definition; except that beer may be
1595 manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as
1596 long as no more than 49 percent of the overall alcohol content of the finished product is derived from

the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to Article 10 (§ 2.2-2336 *et seq.*) of Chapter 22 of Title 2.2.

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

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

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

"Board" means the *board of directors of the Virginia Alcoholic Beverage Control Board Authority*.

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

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

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

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

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

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

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 *et seq.*) of Title 54.1.

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

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

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

"Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of

1658 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
1659 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
1660 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
1661 considered a gift shop.

1662 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
1663 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
1664 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1665 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
1666 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
1667 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
1668 furnished to persons.

1669 "Government store" means a store established by the Board for the sale of alcoholic beverages.

1670 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
1671 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
1672 four or more bedrooms. It shall also mean the person who operates such hotel.

1673 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
1674 pursuant to this title.

1675 "Internet wine retailer" means a person who owns or operates an establishment with adequate
1676 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone
1677 orders are taken and shipped directly to consumers and which establishment is not a retail store open to
1678 the public.

1679 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
1680 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

1681 "Licensed" means the holding of a valid license issued by the Board.

1682 "Licensee" means any person to whom a license has been granted by the Board.

1683 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
1684 content of 25 percent by volume.

1685 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
1686 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
1687 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
1688 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
1689 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
1690 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved
1691 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be
1692 sold for on-premises consumption other than by mixed beverage licensees.

1693 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for
1694 off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen
1695 facilities located at the establishment.

1696 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
1697 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
1698 specializing in full course meals with a single substantial entree.

1699 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
1700 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
1701 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
1702 descendants of a bona fide member, whether alive or deceased, of a national or international
1703 organization to which an individual lodge holding a club license is an authorized member in the same
1704 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the
1705 annual dues of resident members of the club, the full amount of such contribution being paid in advance
1706 in a lump sum.

1707 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
1708 spirits.

1709 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,
1710 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives
1711 which are not commonly consumed unless combined with alcoholic beverages, whether or not such
1712 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a
1713 Virginia corporation.

1714 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
1715 designated in the application for a license as the place at which the manufacture, bottling, distribution,
1716 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other
1717 improvement actually and exclusively used as a private residence.

1718 "Public place" means any place, building, or conveyance to which the public has, or is permitted to
1719 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,

and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

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

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

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

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

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

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

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

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

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

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

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

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

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-103. General powers of Board.

1781 ~~The~~ *In addition to the powers enumerated in § 2.2-2341, the Board shall have the power to:*

1782 1. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries,
1783 and to have alcoholic beverages other than beer and wine not produced by farm wineries in its
1784 possession for sale;

1785 2. Buy and sell any mixers;

1786 3. Control the possession, sale, transportation and delivery of alcoholic beverages;

1787 4. Determine, subject to § 4.1-121, the localities within which government stores shall be established
1788 or operated and the location of such stores;

1789 5. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
1790 beverages to and from such warehouses;

1791 6. Lease, occupy and improve any land or building required for the purposes of this title;

1792 7. Purchase or otherwise acquire title to any land or building required for the purposes of this title
1793 and sell and convey the same by proper deed, ~~with the consent of the Governor;~~

1794 8. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be
1795 considered necessary or useful in carrying into effect the purposes of this title, including rectifying,
1796 blending and processing plants. The Board may purchase, build, lease, and operate distilleries and
1797 manufacture alcoholic beverages;

1798 9. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to
1799 be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed
1800 thereon;

1801 10. Appoint every agent ~~and employee~~ required for its operations; require any or all of them to give
1802 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the
1803 services of experts and professionals;

1804 11. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the
1805 production of records, memoranda, papers and other documents before ~~the Board or~~ any agent of the
1806 Board; and administer oaths and take testimony thereunder. The Board ~~may~~ *shall* authorize ~~any Board~~
1807 ~~member or an~~ agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and
1808 take testimony thereunder, *and render final decisions that are appealable in accordance with § 2.2-4026,*
1809 *and make summary decisions; subject to final decision by the Board,* on application of any party
1810 aggrieved;

1811 12. Make a reasonable charge for preparing and furnishing statistical information and compilations to
1812 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
1813 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
1814 interest in obtaining the information requested if such information is not to be used for commercial or
1815 trade purposes;

1816 13. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
1817 and § 4.1-111 of this chapter;

1818 14. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and
1819 sale of alcoholic beverages;

1820 15. Assess and collect civil penalties and civil charges for violations of this title and Board
1821 regulations;

1822 16. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

1823 17. Establish minimum food sale requirements for all retail licensees; ~~and~~

1824 18. *Require affirmations from a producer of distilled spirits that spirits sold to the Board are not*
1825 *sold at a cost higher than the lowest price at which the item was sold by such producer anywhere in*
1826 *any other state or in the District of Columbia, or to any state or state agency that owns and operates a*
1827 *retail liquor store. The Board may require a producer of distilled spirits products to file an affirmation*
1828 *statement on a form prescribed by the Board verifying the bottle and case price as well as any*
1829 *discounts then in effect; and*

1830 19. Do all acts necessary or advisable to carry out the purposes of this title.

1831 § 4.1-103.1. Criminal history records check required on certain employees; reimbursement of costs.

1832 On or after July 1, 1994, all persons hired by the ~~Board~~ Authority whose job duties involve access to
1833 or handling of departmental funds or merchandise shall be subject to a criminal history records check
1834 before, and as a condition of, employment.

1835 *No person who has been convicted of a felony or of a crime involving moral turpitude shall be*
1836 *employed by the Authority.*

1837 The Department of State Police shall be reimbursed by the ~~Board~~ Authority for the cost of
1838 investigations conducted pursuant to this section.

1839 § 4.1-111. Regulations of Board.

1840 A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general
1841 laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to
1842 prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The

Board may amend or repeal such regulations. 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. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

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

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7.6. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8.7. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9.8. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

~~10.9.~~ Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

~~11.10~~ Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

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

§ 4.1-119. Operation of government stores.

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, and products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

1904 B. With respect to the sale of wine produced by farm wineries, the Board may give preference to
1905 farm wineries that produce 2,500 cases or less of wine per year.

1906 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
1907 brands of alcoholic beverages and other Board-approved products that are sold in government stores.
1908 Differences in the cost of operating stores, and market competition and conditions may be reflected in
1909 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages
1910 to federal instrumentalities (i) authorized and operating under the laws of the United States and
1911 regulations of the United States Department of Defense and (ii) located within the boundaries of federal
1912 enclaves or reservations over which the United States has acquired jurisdiction, at prices ~~which~~ *that* may
1913 be greater or less than the wholesale price charged other authorized purchasers. *Nothing in this*
1914 *subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic*
1915 *beverages sold at government stores, which retail price may include promotional, volume, or other*
1916 *discounts deemed appropriate by the Board.*

1917 D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall
1918 carry out the provisions of this title and Board regulations governing the operation of government stores
1919 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license
1920 or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or
1921 blended by such licensee on the licensed premises, at government stores established by the Board on the
1922 distiller's licensed premises, provided:

1923 1. At least 51 percent of the agricultural products used by such licensee to manufacture the spirits are
1924 grown on the licensee's farm or land in Virginia leased by the licensee and no more than 25 percent of
1925 the agricultural products are grown or produced outside the Commonwealth. However, upon petition by
1926 the Department of Agriculture and Consumer Services, the Board may permit the use of a lesser
1927 percentage of products grown on the licensee's farm if unusually severe weather or disease conditions
1928 cause a significant reduction in the availability of agricultural products grown on the farm to
1929 manufacture the spirits during a given license year;

1930 2. Such licensee is a duly organized nonprofit association holding title to real property, together with
1931 improvements thereon that are significant in American history, under a charter from the Commonwealth
1932 to preserve such property, and which association accepts no federal, state, or local funds; or

1933 3. Such licensee operates a museum whose licensed premises is located on the grounds of a local
1934 historic building or site.

1935 Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations,
1936 and the terms of the agency agreement between the Board and the licensed distiller.

1937 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
1938 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6
1939 § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor
1940 of such alcoholic beverages and (ii) bottled by the receiving distillery.

1941 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
1942 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101
1943 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

1944 F. All alcoholic beverages sold in government stores shall be in closed containers, sealed and affixed
1945 with labels prescribed by the Board.

1946 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part
1947 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm
1948 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
1949 permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, and the samples of alcoholic
1950 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision
1951 A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may
1952 not lawfully be sold pursuant to § 4.1-304. The Board shall establish guidelines governing tasting events
1953 conducted pursuant to this subsection.

1954 H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment
1955 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check
1956 payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide
1957 notice to licensees on Board policies relating to the assignment of government stores from which
1958 licensees may purchase products and any procedure for the licensee to elect to make purchases from an
1959 alternative government store.

1960 I. With respect to purchases by consumers at government stores, the Board shall accept cash in
1961 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
1962 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
1963 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by
1964 any consumer.

1965 § 4.1-120. When government stores closed.

A. Except as provided in subsection B, no sale or delivery of alcoholic beverages shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic beverages:

1. On Sunday;
2. On Thanksgiving Day, Christmas Day and New Year's Day; or
3. During such other periods and on such other days as the Board may direct.

B. Certain government stores, as determined by the Board, ~~in any county having the urban county executive form of government, in any city adjacent to or completely surrounded by any such county, in any county contiguous to any such county, in any city adjacent to or completely surrounded by any such contiguous county, or in any city having a population of 100,000 or more,~~ may be open on Sunday for the sale of alcoholic beverages after 1:00 p.m.

§ 4.1-121. Referendum on establishment of government stores.

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the Board of Alcoholic Beverages, other than beer and wine not produced by farm wineries, should be permitted within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least ~~ten~~ 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the *Virginia* Alcoholic Beverage Control ~~Board~~ Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be permitted in (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

§ 4.1-124. Referendum on the sale of mixed beverages.

A. The provisions of this title relating to the sale of mixed beverages shall not become effective in any town, county, or supervisor's election district of a county until a majority of the voters voting in a referendum vote affirmatively on the question of whether mixed alcoholic beverages should be sold by restaurants licensed under this title. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be permitted within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least ~~ten~~ 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater. Petition requirements for any county shall be based on the number of registered voters in the county, exclusive of the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the *Virginia* Alcoholic Beverage Control ~~Board~~ Authority be permitted in (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages permitted to be sold by such referendum may in accordance with this title be sold by restaurants licensed by the Board within the town, county, or supervisor's election district of a county on or after ~~thirty~~ 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

2027 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to
2028 the same extent and subject to the same conditions and limitations as are otherwise applicable to
2029 counties under this section. Such towns shall be treated as separate local option units, and residents of
2030 any such town shall not be eligible to vote in any referendum held pursuant to this section for any
2031 county in which the town is located.

2032 However, the provisions of this section shall not require any town created as a result of a
2033 city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 to hold a referendum
2034 on the same question if a majority of the voters voting in the former city had previously approved the
2035 sale of mixed beverages by restaurants licensed by the Board in such city.

2036 B. Once a referendum has been held, no other referendum on the same question shall be held in the
2037 town, county, or supervisor's election district of a county for a period of ~~twenty-three~~ 23 months.

2038 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on
2039 property dedicated for industrial or commercial development and controlled through the provision of
2040 public utilities and covenanting of the land by any multijurisdictional industrial development authority,
2041 as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority
2042 operates under a partnership agreement between three or more counties, cities, or towns and such
2043 jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed
2044 beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of
2045 one of the counties and that the governing board of the authority authorizes an establishment located
2046 within the confines of such property to apply to the Board for such license. The appropriate license fees
2047 shall be paid for this privilege.

2048 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the
2049 sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not
2050 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

2051 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant
2052 license to a restaurant located on the premises of and operated by a private club exclusively for its
2053 members and their guests, subject to the qualifications and restrictions on the issuance of such license
2054 imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private
2055 club restricts its membership on the basis of race, color, creed, national origin or sex.

2056 § 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

2057 A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance
2058 or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale
2059 distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in
2060 the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits
2061 or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations
2062 of the *Virginia Alcoholic Beverage Control Board Authority*, and federal law at a licensed farm winery.

2063 No provision of law, general or special, shall be construed to authorize any county, city or town to
2064 adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than
2065 the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect
2066 the authority of any county, city or town to impose a license or privilege tax or fee on a business
2067 engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is
2068 based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual
2069 license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its
2070 taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

2071 B. However, the governing body of any county, city, or town may adopt an ordinance which (i)
2072 prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsection B of
2073 § 4.1-308, or the acts described in § 4.1-309 and may provide a penalty for violation thereof and (ii)
2074 subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage
2075 containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public
2076 street.

2077 C. Except as provided in this section, all local acts, including charter provisions and ordinances of
2078 cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such
2079 inconsistency.

2080 § 4.1-209.1. Direct shipment of wine and beer; shipper's license.

2081 A. Holders of wine shippers' licenses and beer shippers' licenses issued pursuant to this section may
2082 sell and ship not more than two cases of wine per month nor more than two cases of beer per month to
2083 any person in Virginia to whom alcoholic beverages may be lawfully sold. All such sales and shipments
2084 shall be for personal consumption only and not for resale. A case of wine shall mean any combination
2085 of packages containing not more than nine liters of wine. A case of beer shall mean any combination of
2086 packages containing not more than 288 ounces of beer. Any winery or farm winery located within or
2087 outside the Commonwealth may apply to the Board for issuance of a wine shipper's license that shall
2088 authorize the shipment of brands of wine and farm wine identified in such application. Any brewery

located within or outside the Commonwealth may apply to the Board for issuance of a beer shipper's license that shall authorize the shipment of brands of beer identified in such application. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail in their state of domicile and who is not a winery, farm winery, or brewery may nevertheless apply for a wine or beer shipper's license, or both, if such person satisfies the requirements of this section. Any brewery, winery, or farm winery that applies for a shipper's license or authorizes any other person, other than a retail off-premises licensee, to apply for a license to ship such brewery's, winery's or farm winery's brands of wine or beer shall notify any wholesale licensees that have been authorized to distribute such brands that an application has been filed for a shipper's license. The notice shall be in writing and in a form prescribed by the Board. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section, including regulations that permit the holder of a shipper's license to amend the same by, among other things, adding or deleting any brands of wine, farm wine, or beer identified in such shipper's license.

B. Any applicant for a wine or beer shipper's license that does not own or have the right to control the distribution of the brands of wine, farm wine, or beer identified in such person's application may be issued a shipper's license for wine or beer or both, if the applicant has obtained and filed with its application for a shipper's license, and with any subsequent application for renewal thereof, the written consent of either (i) the winery, farm winery, or brewery whose brands of wine, farm wine, or beer are identified therein or (ii) any wholesale distributor authorized to distribute the wine or beer produced by the winery, farm winery or brewery. Any winery, farm winery, or brewery, or its wholesale distributor, that has provided written authorization to a shipper licensed pursuant to this section to sell and ship its brand or brands of wine, farm wine, or beer shall not be restricted by any provision of this section from withdrawing such authorization at any time. If such authorization is withdrawn, the winery, farm winery, or brewery shall promptly notify such shipper licensee and the Board in writing of its decision to withdraw from such shipper licensee the authority to sell and ship any of its brands, whereupon such shipper licensee shall promptly file with the Board an amendment to its license eliminating any such withdrawn brand or brands from the shipper's license.

C. The direct shipment of beer and wine by holders of licenses issued pursuant to this section shall be by approved common carrier only. The Board shall develop regulations pursuant to which common carriers may apply for approval to provide common carriage of wine or beer, or both, shipped by holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (iii) the Board-approved common carrier to submit to the Board such information as the Board may prescribe. The Board-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of each package of wine or beer shipped within or into the Commonwealth, in a conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the shipper licensee shall be liable only for their independent acts.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each shipment of wine or beer by a wine shipper licensee or a beer shipper licensee shall constitute a sale in Virginia. The licensee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the ~~Department of Virginia~~ Alcoholic Beverage Control *Authority* and any sales taxes to the Department of Taxation.

E. Notwithstanding the provisions of § 4.1-203, the holder of a wine shipper license or beer shipper license may solicit and receive applications for subscription to a wine-of-the-month or beer-of-the-month club at in-state or out-of-state locations for which a license for on-premises consumption has been issued, other than the place where the licensee carries on the business for which the license is granted. For the purposes of this subsection, "wine-of-the-month club" or "beer-of-the-month club" shall mean an agreement between an in-state or out-of-state holder of a wine shipper license or beer shipper license and a consumer in Virginia to whom alcoholic beverages may be lawfully sold that the shipper will sell and ship to the consumer and the consumer will purchase a lawful amount of wine or beer each month for an agreed term of months.

F. Notwithstanding the provisions of § 4.1-203, a wine or beer shipper licensee may ship wine or beer as authorized by this section through the use of the services of an approved fulfillment warehouse. For the purposes of this section, a "fulfillment warehouse" means a business operating a warehouse and providing storage, packaging, and shipping services to wineries or breweries. The Board shall develop regulations pursuant to which fulfillment warehouses may apply for approval to provide storage,

2150 packaging, and shipping services to holders of licenses issued pursuant to this section. Such regulations
 2151 shall include provisions that require (i) the fulfillment warehouse to demonstrate that it is appropriately
 2152 licensed for the services to be provided by the state in which its place of business is located, (ii) the
 2153 Board-approved fulfillment warehouse to maintain such records and to submit to the Board such
 2154 information as the Board may prescribe, and (iii) the fulfillment warehouse and each wine or beer
 2155 shipper licensed under this section to whom services are provided to enter into a contract designating the
 2156 fulfillment warehouse as the agent of the shipper for purposes of complying with the provisions of this
 2157 section.

2158 G. Notwithstanding the provisions of § 4.1-203, a wine or beer shipper licensee may sell wine or
 2159 beer as authorized by this section through the use of the services of an approved marketing portal. For
 2160 the purposes of this section, a "marketing portal" means a business organized as an agricultural
 2161 cooperative association under the laws of a state, soliciting and receiving orders for wine or beer and
 2162 accepting and processing payment of such orders as the agent of a licensed wine or beer shipper. The
 2163 Board shall develop regulations pursuant to which marketing portals may apply for approval to provide
 2164 marketing services to holders of licenses issued pursuant to this section. Such regulations shall include
 2165 provisions that require (i) the marketing portal to demonstrate that it is appropriately organized as an
 2166 agricultural cooperative association and licensed for the services to be provided by the state in which its
 2167 place of business is located, (ii) the Board-approved marketing portal to maintain such records and to
 2168 submit to the Board such information as the Board may prescribe, and (iii) the marketing portal and
 2169 each wine or beer shipper licensed under this section to whom services are provided to enter into a
 2170 contract designating the marketing portal as the agent of the shipper for purposes of complying with the
 2171 provisions of this section.

2172 § 4.1-212.1. Permits; delivery of wine and beer; regulations of Board.

2173 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is
 2174 authorized to engage in the retail sale of wine or beer for off-premises consumption may apply to the
 2175 Board for issuance of a delivery permit that shall authorize the delivery of the brands of beer, wine, and
 2176 farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers
 2177 within the Commonwealth for personal consumption.

2178 B. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at
 2179 retail for off-premises consumption in their state of domicile, and who is not a brewery, winery, or farm
 2180 winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine,
 2181 and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within
 2182 the Commonwealth for personal consumption.

2183 C. All such deliveries shall be to consumers within the Commonwealth for personal consumption
 2184 only, and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by the
 2185 owner or any agent, officer, director, shareholder or employee of the permittee. No more than four cases
 2186 of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to
 2187 whom alcoholic beverages may be lawfully sold; except that the permittee may deliver more than four
 2188 cases of wine or more than four cases of beer if he notifies the ~~Department~~ Authority in writing at least
 2189 one business day in advance of any such delivery, which notice contains the name and address of the
 2190 intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement
 2191 the provisions of this section. Such regulations shall include provisions that require (i) the recipient to
 2192 demonstrate, upon delivery, that he is at least 21 years of age; and (ii) the recipient to sign an electronic
 2193 or paper form or other acknowledgement of receipt as approved by the Board.

2194 D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each
 2195 delivery of wine or beer by a permittee shall constitute a sale in Virginia. The permittee shall collect the
 2196 taxes due to the Commonwealth and remit any excise taxes monthly to the ~~Department of Virginia~~
 2197 Alcoholic Beverage Control Authority and any sales taxes to the Department of Taxation.

2198 § 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

2199 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee
 2200 shall:

- 2201 1. Sell or serve any alcoholic beverage other than as authorized by law;
- 2202 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
- 2203 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of
 2204 this title;
- 2205 4. Keep at the place described in his license any alcoholic beverage other than that which he is
 2206 licensed to sell;
- 2207 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
- 2208 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by
 2209 him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink
 2210 dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by
 2211 the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board

regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from pre-mixing containers of sangria to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to § 4.1-111 B 44 10;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 g of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this ~~clause~~ *subdivision*, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection C of § 4.1-209; or (iv) pursuant to subdivision A 12 of § 4.1-201. Any gift permitted by this subdivision shall be subject to the taxes imposed by this title on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

2273 § 9.1-101. Definitions.

2274 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires
2275 a different meaning:

2276 "Administration of criminal justice" means performance of any activity directly involving the
2277 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
2278 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
2279 storage, and dissemination of criminal history record information.

2280 "Board" means the Criminal Justice Services Board.

2281 "Conviction data" means information in the custody of any criminal justice agency relating to a
2282 judgment of conviction, and the consequences arising therefrom, in any court.

2283 "Correctional status information" means records and data concerning each condition of a convicted
2284 person's custodial status, including probation, confinement, work release, study release, escape, or
2285 termination of custody through expiration of sentence, parole, pardon, or court decision.

2286 "Criminal history record information" means records and data collected by criminal justice agencies
2287 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
2288 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
2289 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
2290 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
2291 status information.

2292 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
2293 which as its principal function performs the administration of criminal justice and any other agency or
2294 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for
2295 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,
2296 within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or
2297 special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of
2298 Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators
2299 or special policemen to meet compulsory training standards established by the Criminal Justice Services
2300 Board and submits reports of compliance with the training standards and (b) the private corporation or
2301 agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the
2302 extent that the private corporation or agency so designated as a criminal justice agency performs
2303 criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities
2304 otherwise permitted under subdivision (i) and for the purpose of performing duties required by the Civil
2305 Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

2306 "Criminal justice agency" includes the Virginia State Crime Commission.

2307 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to
2308 § 18.2-271.2.

2309 "Criminal justice information system" means a system including the equipment, facilities, procedures,
2310 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of
2311 criminal history record information. The operations of the system may be performed manually or by
2312 using electronic computers or other automated data processing equipment.

2313 "Department" means the Department of Criminal Justice Services.

2314 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
2315 means. The term shall not include access to the information by officers or employees of a criminal
2316 justice agency maintaining the information who have both a need and right to know the information.

2317 "Law-enforcement officer" means any full-time or part-time employee of a police department or
2318 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
2319 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the
2320 penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the
2321 ~~Department of Virginia~~ Alcoholic Beverage Control Authority; (ii) police agent appointed under the
2322 provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is
2323 a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries;
2324 (v) investigator who is a full-time sworn member of the security division of the State Lottery
2325 Department; (vi) conservation officer of the Department of Conservation and Recreation commissioned
2326 pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of
2327 Motor Vehicles appointed pursuant to § 46.2-217; or (viii) animal protection police officers employed
2328 under § 15.2-632. Part-time employees are those compensated officers who are not full-time employees
2329 as defined by the employing police department or sheriff's office.

2330 "School resource officer" means a certified law-enforcement officer hired by the local
2331 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
2332 and secondary schools.

2333 "School security officer" means an individual who is employed by the local school board for the
2334 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school

board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation work. Failure to complete the training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

13. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

14. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

15. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

16. Make recommendations concerning any matter within its purview pursuant to this chapter;

17. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and

2396 programs;

2397 18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
2398 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
2399 submit information, reports, and statistical data with respect to its policy and operation of information
2400 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
2401 information and correctional status information, and such criminal justice agencies shall submit such
2402 information, reports, and data as are reasonably required;

2403 19. Conduct audits as required by § 9.1-131;

2404 20. Conduct a continuing study and review of questions of individual privacy and confidentiality of
2405 criminal history record information and correctional status information;

2406 21. Advise criminal justice agencies and initiate educational programs for such agencies with respect
2407 to matters of privacy, confidentiality, and security as they pertain to criminal history record information
2408 and correctional status information;

2409 22. Maintain a liaison with any board, commission, committee, or other body which may be
2410 established by law, executive order, or resolution to regulate the privacy and security of information
2411 collected by the Commonwealth or any political subdivision thereof;

2412 23. Adopt regulations establishing guidelines and standards for the collection, storage, and
2413 dissemination of criminal history record information and correctional status information, and the privacy,
2414 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
2415 court orders;

2416 24. Operate a statewide criminal justice research center, which shall maintain an integrated criminal
2417 justice information system, produce reports, provide technical assistance to state and local criminal
2418 justice data system users, and provide analysis and interpretation of criminal justice statistical
2419 information;

2420 25. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
2421 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
2422 update that plan;

2423 26. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
2424 Commonwealth, and units of general local government, or combinations thereof, including planning
2425 district commissions, in planning, developing, and administering programs, projects, comprehensive
2426 plans, and other activities for improving law enforcement and the administration of criminal justice
2427 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

2428 27. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and
2429 activities for the Commonwealth and units of general local government, or combinations thereof, in the
2430 Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal
2431 justice at every level throughout the Commonwealth;

2432 28. Review and evaluate programs, projects, and activities, and recommend, where necessary,
2433 revisions or alterations to such programs, projects, and activities for the purpose of improving law
2434 enforcement and the administration of criminal justice;

2435 29. Coordinate the activities and projects of the state departments, agencies, and boards of the
2436 Commonwealth and of the units of general local government, or combination thereof, including planning
2437 district commissions, relating to the preparation, adoption, administration, and implementation of
2438 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
2439 justice;

2440 30. Do all things necessary on behalf of the Commonwealth and its units of general local
2441 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
2442 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and
2443 programs for strengthening and improving law enforcement, the administration of criminal justice, and
2444 delinquency prevention and control;

2445 31. Receive, administer, and expend all funds and other assistance available to the Board and the
2446 Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe
2447 Streets Act of 1968, as amended;

2448 32. Apply for and accept grants from the United States government or any other source in carrying
2449 out the purposes of this chapter and accept any and all donations both real and personal, and grants of
2450 money from any governmental unit or public agency, or from any institution, person, firm or
2451 corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section
2452 shall be detailed in the annual report of the Board. Such report shall include the identity of the donor,
2453 the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section
2454 shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall
2455 have the power to comply with conditions and execute such agreements as may be necessary;

2456 33. Make and enter into all contracts and agreements necessary or incidental to the performance of
2457 its duties and execution of its powers under this chapter, including but not limited to, contracts with the

United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

34. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

35. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

36. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

37. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

41. [Expired.]

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center shall, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

44. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of these standards and certification requirements;

45. Establish training standards and publish a model policy and protocols for local and regional sexual assault response teams;

46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.) of this chapter;

47. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.) of this chapter;

48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

2519 49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,
2520 and (iii) certification requirements for campus security officers. Such training standards shall include, but
2521 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,
2522 school and personal liability issues, security awareness in the campus environment, and disaster and
2523 emergency response. The Department shall provide technical support and assistance to campus police
2524 departments and campus security departments on the establishment and implementation of policies and
2525 procedures, including but not limited to: the management of such departments, investigatory procedures,
2526 judicial referrals, the establishment and management of databases for campus safety and security
2527 information sharing, and development of uniform record keeping for disciplinary records and statistics,
2528 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an
2529 advisory committee consisting of college administrators, college police chiefs, college security
2530 department chiefs, and local law-enforcement officials to assist in the development of the standards and
2531 certification requirements and training pursuant to this subdivision;

2532 50. Establish compulsory training standards and publish a model policy for law-enforcement
2533 personnel regarding death notification;

2534 51. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established
2535 pursuant to § 9.1-187;

2536 52. Establish, publish, and disseminate a model policy or guideline for law-enforcement personnel for
2537 questioning individuals suspected of driving while intoxicated concerning the physical location of that
2538 individual's last consumption of an alcoholic beverage and for communicating that information to the
2539 Virginia Alcoholic Beverage Control Board Authority; and

2540 53. Perform such other acts as may be necessary or convenient for the effective performance of its
2541 duties.

2542 § 9.1-400. Title of chapter; definitions.

2543 A. This chapter shall be known and designated as the Line of Duty Act.

2544 B. As used in this chapter, unless the context requires a different meaning:

2545 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under
2546 the will of a deceased person if testate, or as his heirs at law if intestate.

2547 "Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct
2548 or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1,
2549 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its
2550 political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail
2551 farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of
2552 Richmond; a police chaplain; a member of any fire company or department or rescue squad that has
2553 been recognized by an ordinance or a resolution of the governing body of any county, city or town of
2554 the Commonwealth as an integral part of the official safety program of such county, city or town; a
2555 member of the Virginia National Guard or the Virginia State Defense Force while such member is
2556 serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or
2557 federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic
2558 Beverage Control Board Authority; any regular or special conservation police officer who receives
2559 compensation from a county, city or town or from the Commonwealth appointed pursuant to the
2560 provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of
2561 § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power
2562 of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer;
2563 any other employee of the Department of Emergency Management who is performing official duties of
2564 the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16,
2565 that has been or is later declared to exist under the authority of the Governor in accordance with
2566 § 44-146.28; any employee of any county, city, or town performing official emergency management or
2567 emergency services duties in cooperation with the Department of Emergency Management, when those
2568 duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later
2569 declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local
2570 emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional
2571 hazardous materials emergency response team member; or any conservation officer of the Department of
2572 Conservation and Recreation commissioned pursuant to § 10.1-115.

2573 "Disabled person" means any individual who, as the direct or proximate result of the performance of
2574 his duty in any position listed in the definition of deceased person in this section, has become mentally
2575 or physically incapacitated so as to prevent the further performance of duty where such incapacity is
2576 likely to be permanent. The term shall also include any state employee included in the definition of a
2577 deceased person who was disabled on or after January 1, 1966.

2578 "Line of duty" means any action the deceased or disabled person was obligated or authorized to
2579 perform by rule, regulation, condition of employment or service, or law.

2580 § 9.1-500. Definitions.

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

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Department of Virginia Alcoholic Beverage Control Authority, the Department of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Department of Virginia Alcoholic Beverage Control Authority, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b. The police department, bureau or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau or force has ten 10 or more law-enforcement officers; or

c. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" shall not include the sheriff's department of any city or county.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of this Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or rescue squad that has been recognized by an ordinance or resolution of the governing body of any county, city or town of this Commonwealth as an integral part of the official safety program of such county, city or town; an arson investigator; a member of the Virginia National Guard or the Virginia State Defense Force while such a member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board Authority; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the State Lottery Department; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

2642 E. No locality shall regulate any of the following activities of a farm winery licensed in accordance
2643 with subdivision 5 of § 4.1-207:

2644 1. The production and harvesting of fruit and other agricultural products and the manufacturing of
2645 wine;

2646 2. The on-premises sale, tasting, or consumption of wine during regular business hours within the
2647 normal course of business of the licensed farm winery;

2648 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title
2649 4.1 and regulations of the *Virginia Alcoholic Beverage Control Board Authority*;

2650 4. The sale and shipment of wine to the *Virginia Alcoholic Beverage Control Board Authority*,
2651 licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the *Virginia*
2652 *Alcoholic Beverage Control Board Authority*, and federal law;

2653 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the
2654 *Virginia Alcoholic Beverage Control Board Authority*, and federal law; or

2655 6. The sale of wine-related items that are incidental to the sale of wine.

2656 § 18.2-246.6. Definitions.

2657 For purposes of this article:

2658 "Adult" means a person who is at least the legal minimum purchasing age.

2659 "Board" means the *board of directors of the Virginia Alcoholic Beverage Control Board Authority*.

2660 "Consumer" means an individual who is not permitted as a wholesaler pursuant to § 58.1-1011 or
2661 who is not a retailer.

2662 "Delivery sale" means any sale of cigarettes to a consumer in the Commonwealth regardless of
2663 whether the seller is located in the Commonwealth where either (i) the purchaser submits the order for
2664 such sale by means of a telephonic or other method of voice transmission, the mails or any other
2665 delivery service, or the Internet or other online service; or (ii) the cigarettes are delivered by use of the
2666 mails or a delivery service. A sale of cigarettes not for personal consumption to a person who is a
2667 wholesale dealer or retail dealer, as such terms are defined in § 58.1-1000, shall not be a delivery sale.
2668 A delivery of cigarettes, not through the mail or by a common carrier, to a consumer performed by the
2669 owner, employee or other individual acting on behalf of a retailer authorized to sell such cigarettes shall
2670 not be a delivery sale.

2671 "Delivery service" means any person who is engaged in the commercial delivery of letters, packages,
2672 or other containers.

2673 "Legal minimum purchasing age" is the minimum age at which an individual may legally purchase
2674 cigarettes in the Commonwealth.

2675 "Mails" or "mailing" means the shipment of cigarettes through the United States Postal Service.

2676 "Shipping container" means a container in which cigarettes are shipped in connection with a delivery
2677 sale.

2678 "Shipping documents" means bills of lading, airbills, or any other documents used to evidence the
2679 undertaking by a delivery service to deliver letters, packages, or other containers.

2680 § 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

2681 A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver,
2682 or other weapon designed or intended to propel a missile of any kind by action of an explosion of any
2683 combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor,
2684 slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more
2685 rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun
2686 chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration,
2687 having at least two points or pointed blades which is designed to be thrown or propelled and which may
2688 be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this
2689 subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a
2690 conviction under this section subsequent to any conviction under any substantially similar ordinance of
2691 any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such
2692 violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be
2693 deemed to be hidden from common observation when it is observable but is of such deceptive
2694 appearance as to disguise the weapon's true nature.

2695 B. This section shall not apply to any person while in his own place of abode or the curtilage
2696 thereof.

2697 Except as provided in subsection J1, this section shall not apply to:

2698 1. Any person while in his own place of business;

2699 2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the
2700 Commonwealth;

2701 3. Any regularly enrolled member of a target shooting organization who is at, or going to or from,
2702 an established shooting range, provided that the weapons are unloaded and securely wrapped while being
2703 transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the *Virginia* Alcoholic Beverage Control Board Authority, any conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the *Virginia* Alcoholic Beverage Control Board Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2 of this subsection.

7a. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from such law-enforcement agency or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the *Virginia* Alcoholic Beverage Control Board Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Board or Commission to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

8. Any State Police officer who is a member of the organized reserve forces of any of the armed

2765 services of the United States, national guard, or naval militia, while such officer is called to active
2766 military duty, provided such officer carries with him written proof of consultation with and favorable
2767 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof
2768 of consultation and favorable review shall be valid as long as the officer is on active military duty and
2769 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
2770 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
2771 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
2772 good standing and is qualified to carry a weapon while on active law-enforcement duty.

2773 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
2774 to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and
2775 favorable review required, shall be deemed to have been issued a concealed handgun permit;

2776 9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such
2777 attorney may travel in the Commonwealth; and

2778 10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal,
2779 private motor vehicle or vessel and such handgun is secured in a container or compartment in the
2780 vehicle or vessel.

2781 C. This section shall also not apply to any of the following individuals while in the discharge of
2782 their official duties, or while in transit to or from such duties:

- 2783 1. Carriers of the United States mail;
- 2784 2. Officers or guards of any state correctional institution;
- 2785 3. [Repealed.]

2786 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for
2787 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
2788 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
2789 permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or
2790 other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in
2791 chancery;

2792 5. Noncustodial employees of the Department of Corrections designated to carry weapons by the
2793 Director of the Department of Corrections pursuant to § 53.1-29; and

2794 6. Harbormaster of the City of Hopewell.

2795 D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the
2796 county or city in which he resides, or if he is a member of the United States Armed Forces, the county
2797 or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no
2798 requirement regarding the length of time an applicant has been a resident or domiciliary of the county or
2799 city. The application shall be made under oath before a notary or other person qualified to take oaths
2800 and shall be made only on a form prescribed by the Department of State Police, in consultation with the
2801 Supreme Court, requiring only that information necessary to determine eligibility for the permit. The
2802 clerk shall enter on the application the date on which the application and all other information required
2803 to be submitted by the applicant is received. The court shall consult with either the sheriff or police
2804 department of the county or city and receive a report from the Central Criminal Records Exchange. As a
2805 condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if
2806 required by local ordinance in the county or city where the applicant resides and provide personal
2807 descriptive information to be forwarded with the fingerprints through the Central Criminal Records
2808 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record
2809 information regarding the applicant, and obtaining fingerprint identification information from federal
2810 records pursuant to criminal investigations by state and local law-enforcement agencies. However, no
2811 local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing
2812 concealed handgun permit issued pursuant to this section and is applying for a new five-year permit
2813 pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer
2814 information electronically to the State Police instead of inked fingerprint cards. Upon completion of the
2815 criminal history records check, the State Police shall return the fingerprint cards to the submitting local
2816 agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then
2817 promptly notify the person that he has 21 days from the date of the notice to request return of the
2818 fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification
2819 by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon
2820 completion of the criminal history records check without requiring that the applicant be notified.
2821 Fingerprints taken for the purposes described in this section shall not be copied, held or used for any
2822 other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit
2823 within 45 days of receipt of the completed application unless it is determined that the applicant is
2824 disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial
2825 review, to applicants who have submitted complete applications, for whom the criminal history records
2826 check does not indicate a disqualification and, after consulting with either the sheriff or police

department of the county or city, about which there are no outstanding questions or issues concerning the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and send a copy of the certified application to the applicant. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 37.2-1012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

2888 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by
2889 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
2890 of police, or attorney for the Commonwealth may submit to the court a sworn written statement
2891 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based
2892 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is
2893 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief
2894 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such
2895 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the
2896 specific acts, or upon a written statement made under oath before a notary public of a competent person
2897 having personal knowledge of the specific acts.

2898 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
2899 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
2900 of § 18.2-282 within the three-year period immediately preceding the application.

2901 15. An individual who has been convicted of stalking.

2902 16. An individual whose previous convictions or adjudications of delinquency were based on an
2903 offense which would have been at the time of conviction a felony if committed by an adult under the
2904 laws of any state, the District of Columbia, the United States or its territories. For purposes of this
2905 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the
2906 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or
2907 adjudication shall be deemed to be "previous convictions."

2908 17. An individual who has a felony charge pending or a charge pending for an offense listed in
2909 subdivision 14 or 15.

2910 18. An individual who has received mental health treatment or substance abuse treatment in a
2911 residential setting within five years prior to the date of his application for a concealed handgun permit.

2912 19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period
2913 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
2914 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or of a criminal offense of illegal possession
2915 or distribution of marijuana or any controlled substance, under the laws of any state, the District of
2916 Columbia, or the United States or its territories.

2917 20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the
2918 three-year period immediately preceding the application, upon a charge of any criminal offense set forth
2919 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or
2920 distribution of marijuana or any controlled substance under the laws of any state, the District of
2921 Columbia, or the United States or its territories, the trial court found that the facts of the case were
2922 sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially
2923 similar law of any other state, the District of Columbia, or the United States or its territories.

2924 F. The making of a materially false statement in an application under this section shall constitute
2925 perjury, punishable as provided in § 18.2-434.

2926 G. The court shall require proof that the applicant has demonstrated competence with a handgun and
2927 the applicant may demonstrate such competence by one of the following, but no applicant shall be
2928 required to submit to any additional demonstration of competence, nor shall any proof of demonstrated
2929 competence expire:

2930 1. Completing any hunter education or hunter safety course approved by the Department of Game
2931 and Inland Fisheries or a similar agency of another state;

2932 2. Completing any National Rifle Association firearms safety or training course;

2933 3. Completing any firearms safety or training course or class available to the general public offered
2934 by a law-enforcement agency, junior college, college, or private or public institution or organization or
2935 firearms training school utilizing instructors certified by the National Rifle Association or the
2936 Department of Criminal Justice Services;

2937 4. Completing any law-enforcement firearms safety or training course or class offered for security
2938 guards, investigators, special deputies, or any division or subdivision of law enforcement or security
2939 enforcement;

2940 5. Presenting evidence of equivalent experience with a firearm through participation in organized
2941 shooting competition or current military service or proof of an honorable discharge from any branch of
2942 the armed services;

2943 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a
2944 locality thereof, unless such license has been revoked for cause;

2945 7. Completing any firearms training or safety course or class, including an electronic, video, or
2946 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

2947 8. Completing any governmental police agency firearms training course and qualifying to carry a
2948 firearm in the course of normal police duties; or

2949 9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

H. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.

H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United States, or the Armed Forces reserves of the United States, and his five-year permit expires during an active-duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

I. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in subsection D, and upon receipt by the circuit court of criminal history record information as provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new five-year permit pursuant to this subsection, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K is incorrect. If the new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in

subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

J3. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board Authority under Title 4.1 of the Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Board Authority or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who accepts the information for the replacement permit.

L. Any person denied a permit to carry a concealed handgun under the provisions of this section may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if

an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101, campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, law-enforcement agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § 9.1-101.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

"Personal knowledge" means knowledge of a fact that a person has himself gained through his own senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties.

N. As used in this article:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

O. The granting of a concealed handgun permit shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this section, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in consultation with the Attorney General, may also enter into agreements for reciprocal recognition with any state qualifying for recognition under this subsection.

P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the 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 and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be made under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to the provisions of this subsection.

3134 The applicant shall demonstrate competence with a handgun by one of the following:

3135 1. Completing a hunter education or hunter safety course approved by the Virginia Department of
3136 Game and Inland Fisheries or a similar agency of another state;

3137 2. Completing any National Rifle Association firearms safety or training course;

3138 3. Completing any firearms safety or training course or class available to the general public offered
3139 by a law-enforcement agency, junior college, college, or private or public institution or organization or
3140 firearms training school utilizing instructors certified by the National Rifle Association or the
3141 Department of Criminal Justice Services or a similar agency of another state;

3142 4. Completing any law-enforcement firearms safety or training course or class offered for security
3143 guards, investigators, special deputies, or any division or subdivision of law enforcement or security
3144 enforcement;

3145 5. Presenting evidence of equivalent experience with a firearm through participation in organized
3146 shooting competition approved by the Department of State Police or current military service or proof of
3147 an honorable discharge from any branch of the armed services;

3148 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a
3149 locality thereof, unless such license has been revoked for cause;

3150 7. Completing any firearms training or safety course or class, including an electronic, video, or
3151 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

3152 8. Completing any governmental police agency firearms training course and qualifying to carry a
3153 firearm in the course of normal police duties; or

3154 9. Completing any other firearms training that the Virginia Department of State Police deems
3155 adequate.

3156 A photocopy of a certificate of completion of any such course or class, an affidavit from the
3157 instructor, school, club, organization, or group that conducted or taught such course or class attesting to
3158 the completion of the course or class by the applicant, or a copy of any document which shows
3159 completion of the course or class or evidences participation in firearms competition shall satisfy the
3160 requirement for demonstration of competence with a handgun.

3161 The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the
3162 background check and issuance of the permit. Any fees collected shall be deposited in a special account
3163 to be used to offset the costs of administering the nonresident concealed handgun permit program. The
3164 Department of State Police shall enter the permittee's name and description in the Virginia Criminal
3165 Information Network so that the permit's existence and current status are known to law-enforcement
3166 personnel accessing the Network for investigative purposes.

3167 The permit to carry a concealed handgun shall contain only the following information: name,
3168 address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the
3169 permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee;
3170 the date of issuance; and the expiration date. The person to whom the permit is issued shall have such
3171 permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and
3172 shall display the permit on demand by a law-enforcement officer.

3173 The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative
3174 Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a
3175 nonresident concealed handgun permit.

3176 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the
3177 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform
3178 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9
3179 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the
3180 holder of the permit is 21 years of age or older.

3181 R. For the purposes of participation in concealed handgun reciprocity agreements with other
3182 jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty
3183 law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun
3184 permit under this section shall be deemed a concealed handgun permit.

3185 S. For the purposes of understanding the law relating to the use of deadly and lethal force, the
3186 Department of State Police, in consultation with the Supreme Court on the development of the
3187 application for a concealed handgun permit under this section, shall include a reference to the Virginia
3188 Supreme Court website address or the Virginia Reports on the application.

3189 § 18.2-371.2. Prohibiting purchase or possession of tobacco products by minors or sale of tobacco
3190 products to minors.

3191 A. No person shall sell to, distribute to, purchase for or knowingly permit the purchase by any
3192 person less than 18 years of age, knowing or having reason to believe that such person is less than 18
3193 years of age, any tobacco product, including but not limited to cigarettes, cigars, bidis, and wrappings.

3194 Tobacco products may be sold from a vending machine only if the machine is (i) posted with a
3195 notice, in a conspicuous manner and place, indicating that the purchase or possession of tobacco

products by minors is unlawful and (ii) located in a place which is not open to the general public and is not generally accessible to minors. An establishment which prohibits the presence of minors unless accompanied by an adult is not open to the general public.

B. No person less than 18 years of age shall attempt to purchase, purchase or possess any tobacco product, including but not limited to cigarettes, cigars, bidis, and wrappings. The provisions of this subsection shall not be applicable to the possession of tobacco products, including wrappings, by a person less than 18 years of age making a delivery of tobacco products, including wrappings, in pursuance of his employment. This subsection shall not apply to purchase, attempt to purchase or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, including but not limited to cigarettes, cigars, bidis, and wrappings, to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 18 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 18 years of age or who the person knows is at least 18 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 18 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 18 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior and manner of the individual.

This subsection shall not apply to mail order sales.

D. A violation of subsection A or C by an individual or by a separate retail establishment that involves a tobacco product other than a bidi shall be punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution or purchase of a bidi shall be punishable by a civil penalty in the amount of \$500 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a tobacco product other than a bidi.

A violation of subsection B shall be punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

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

E. 1. Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment which offers for sale any tobacco product, including but not limited to cigarettes, cigars, and bidis, shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, including wrappings, to any person under 18 years of age is prohibited by law. Any attorney for the county, city or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city or town which instituted the action.

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

G. Agents of the Virginia Alcoholic Beverage Control ~~Board~~ Authority designated pursuant to

3257 § 4.1-105 may issue a summons for any violation of this section.

3258 H. As used in this section:

3259 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*)
3260 or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as
3261 a bidi or beedie; and

3262 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for
3263 smoking in a manner similar to a cigarette or cigar.

3264 § 19.2-386.21. Forfeiture of counterfeit cigarettes.

3265 Counterfeit cigarettes possessed in violation of § 18.2-246.14 shall be subject to seizure, forfeiture
3266 and destruction by the Virginia Alcoholic Beverage Control Board Authority or any law-enforcement
3267 officer of the Commonwealth. All fixtures, equipment, materials and personal property used in
3268 substantial connection with sale or possession of counterfeit cigarettes in a knowing and intentional
3269 violation of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2 shall be subject to seizure and
3270 forfeiture according to the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title,
3271 applied mutatis mutandis.

3272 § 19.2-389. Dissemination of criminal history record information.

3273 A. Criminal history record information shall be disseminated, whether directly or through an
3274 intermediary, only to:

3275 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
3276 purposes of the administration of criminal justice and the screening of an employment application or
3277 review of employment by a criminal justice agency with respect to its own employees or applicants, and
3278 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
3279 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
3280 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

3281 2. Such other individuals and agencies that require criminal history record information to implement
3282 a state or federal statute or executive order of the President of the United States or Governor that
3283 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
3284 conduct, except that information concerning the arrest of an individual may not be disseminated to a
3285 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
3286 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
3287 pending;

3288 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
3289 services required for the administration of criminal justice pursuant to that agreement which shall
3290 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
3291 security and confidentiality of the data;

3292 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
3293 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
3294 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
3295 security of the data;

3296 5. Agencies of state or federal government that are authorized by state or federal statute or executive
3297 order of the President of the United States or Governor to conduct investigations determining
3298 employment suitability or eligibility for security clearances allowing access to classified information;

3299 6. Individuals and agencies where authorized by court order or court rule;

3300 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
3301 owned, operated or controlled by any political subdivision, and any public service corporation that
3302 operates a public transit system owned by a local government for the conduct of investigations of
3303 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
3304 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
3305 conviction record would be compatible with the nature of the employment, permit, or license under
3306 consideration;

3307 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.)
3308 and their contractors, for the conduct of investigations of individuals who have been offered a position
3309 of employment whenever, in the interest of public welfare or safety and as authorized in the
3310 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
3311 with a conviction record would be compatible with the nature of the employment under consideration;

3312 8. Public or private agencies when authorized or required by federal or state law or interstate
3313 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
3314 adult members of that individual's household, with whom the agency is considering placing a child or
3315 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
3316 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
3317 the data shall not be further disseminated to any party other than a federal or state authority or court as
3318 may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company or volunteer rescue squad; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719 through 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § 63.2-1720, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed adult day-care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The *Virginia* Alcoholic Beverage Control ~~Board~~ Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof in the course of conducting necessary investigations with respect to registered voters, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

3380 25. Members of a threat assessment team established by a public institution of higher education
3381 pursuant to § 23-9.2:10, for the purpose of assessing or intervening with an individual whose behavior
3382 may present a threat to safety;

3383 26. Executive directors of community services boards or the personnel director serving the
3384 community services board for the purpose of determining an individual's fitness for employment
3385 pursuant to §§ 37.2-506 and 37.2-607;

3386 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
3387 determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

3388 28. The Commissioner of the Department of Social Services for the purpose of locating persons who
3389 owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided
3390 that only the name, address, demographics and social security number of the data subject shall be
3391 released;

3392 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
3393 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
3394 purpose of determining if any applicant who accepts employment in any direct consumer care position
3395 has been convicted of a crime that affects their fitness to have responsibility for the safety and
3396 well-being of persons with mental illness, mental retardation and substance abuse pursuant to
3397 §§ 37.2-416, 37.2-506, and 37.2-607;

3398 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
3399 for a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.)
3400 and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3401 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
3402 for the purpose of determining if any person being considered for election to any judgeship has been
3403 convicted of a crime;

3404 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
3405 determining an individual's fitness for employment in positions designated as sensitive under Department
3406 of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal
3407 history record information to the agencies shall be limited to those positions generally described as
3408 directly responsible for the health, safety and welfare of the general populace or protection of critical
3409 infrastructures;

3410 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
3411 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
3412 Violent Predators Act (§ 37.2-900 et seq.);

3413 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
3414 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
3415 companies, for the conduct of investigations of applications for employment or for access to facilities,
3416 by contractors, leased laborers, and other visitors;

3417 35. Any employer of individuals whose employment requires that they enter the homes of others, for
3418 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

3419 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
3420 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
3421 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
3422 subject to the restriction that the data shall not be further disseminated by the agency to any party other
3423 than a federal or state authority or court as may be required to comply with an express requirement of
3424 law for such further dissemination, subject to limitations set out in subsection G;

3425 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
3426 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
3427 or have accepted a position related to the provision of transportation services to enrollees in the
3428 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
3429 program administered by the Department of Medical Assistance Services;

3430 38. (Effective until October 1, 2010) The State Corporation Commission for the purpose of
3431 investigating individuals who are members, senior officers, directors, and principals of an applicant for
3432 licensure as a mortgage lender or mortgage broker, or a licensed mortgage lender or mortgage broker for
3433 the purpose of investigating individuals applying for a position of employment in which the individual
3434 may have access to or process personal identifying or financial information from a member of the
3435 public, pursuant to Chapter 16 (§ 6.1-408 et seq.) of Title 6.1. Notwithstanding any other provision of
3436 law, if an application for a mortgage lender or mortgage broker license is denied based in whole or in
3437 part on information obtained from the Central Criminal Records Exchange pursuant to § 6.1-414, the
3438 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
3439 its designee;

3440 38. (Effective October 1, 2010) The State Corporation Commission for the purpose of investigating
3441 individuals who are members, senior officers, directors, and principals of an applicant for licensure as a

mortgage lender or mortgage broker, or a licensed mortgage lender or mortgage broker for the purpose of investigating individuals applying for a position of employment in which the individual may have access to or process personal identifying or financial information from a member of the public, pursuant to Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application for a mortgage lender or mortgage broker license is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. Bail bondsmen, in accordance with the provisions of § 19.2-120; and

41. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request; provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

§ 22.1-206. Instruction concerning drugs, alcohol, and substance abuse.

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, and drunk driving shall be provided in the public schools. The ~~Department of~~ Virginia Alcoholic Beverage Control Authority shall provide educational materials to the Department of Education. The

3503 Department of Education shall review and shall distribute such materials as are approved to the public
3504 schools.

3505 § 23-7.4:1. Waiver of tuition and certain charges and fees for eligible children and spouses of certain
3506 military service members, eligible children and spouses of certain public safety personnel, and certain
3507 foreign students.

3508 A. There is hereby established the Virginia Military Survivors and Dependents Education Program.
3509 Qualified survivors and dependents of military service members, who have been admitted to any public
3510 institution of higher education or other public accredited postsecondary institution granting a degree,
3511 diploma, or certificate in the Commonwealth of Virginia, upon certification to the Commissioner of the
3512 Department of Veterans Services of eligibility under this subsection, shall be admitted free of tuition and
3513 all required fees.

3514 The Virginia Military Survivors and Dependents Education Program shall be implemented pursuant
3515 to the following:

3516 1. For the purposes of this subsection, "qualified survivors and dependents" means the spouse or a
3517 child between the ages of 16 and 29 of a military service member who, while serving as an active duty
3518 member in the United States Armed Forces, United States Armed Forces Reserves, the Virginia National
3519 Guard, or Virginia National Guard Reserve, during military operations against terrorism, on a
3520 peacekeeping mission, as a result of a terrorist act, or in any armed conflict subsequent to December 6,
3521 1941, was killed or is missing in action or is a prisoner of war, or of a veteran who, due to such
3522 service, has been rated by the United States Department of Veterans Affairs as totally and permanently
3523 disabled or at least ~~90%~~ 90 percent disabled, and has been discharged or released under conditions other
3524 than dishonorable. However, the Commissioner of the Department of Veterans Services may certify
3525 dependents above the age of 29 in those cases in which extenuating circumstances prevented the
3526 dependent child from using his benefits before the age of 30.

3527 2. Such qualified survivors and dependents shall be eligible for the benefits conferred by this
3528 subsection if the military service member who was killed, is missing in action, is a prisoner of war, or
3529 is disabled (i) was a bona fide domiciliary of Virginia at the time of entering such active military
3530 service or called to active duty as a member of the Armed Forces Reserves or Virginia National Guard
3531 Reserve; (ii) is and has been a bona fide domiciliary of Virginia for at least five years immediately prior
3532 to the date on which the admission application was submitted by or on behalf of such qualified survivor
3533 or dependent for admission to such institution of higher education or other public accredited
3534 postsecondary institution; (iii) if deceased, was a bona fide domiciliary of Virginia on the date of his
3535 death and had been a bona fide domiciliary of Virginia for at least five years immediately prior to his
3536 death; (iv) in the case of a qualified child, is deceased and the surviving parent had been, at some time
3537 previous to marrying the deceased parent, a bona fide domiciliary of Virginia for at least five years or is
3538 and has been a bona fide domiciliary of Virginia for at least five years immediately prior to the date on
3539 which the admission application was submitted by or on behalf of such child; or (v) in the case of a
3540 qualified spouse, is deceased and the surviving spouse had been, at some time previous to marrying the
3541 deceased spouse, a bona fide domiciliary of Virginia for at least five years or is and has been a bona
3542 fide domiciliary of Virginia for at least five years prior to the date on which the admission application
3543 was submitted by such qualified spouse.

3544 3. From such funds as may be appropriated and from such gifts, bequests and any gifts, grants, or
3545 donations from public or private sources, there is hereby established the Virginia Military Survivors and
3546 Dependents Education Fund for the sole purpose of providing financial assistance for board and room
3547 charges, books and supplies, and other expenses at any public institution of higher education or other
3548 public accredited postsecondary institution granting a degree, diploma, or certificate in the
3549 Commonwealth of Virginia for the use and benefit of qualified survivors and dependents.

3550 Each year, from the funds available in the Virginia Military Survivors and Dependents Education
3551 Fund, the State Council of Higher Education for Virginia and its member institutions shall determine the
3552 amount and the manner in which financial assistance shall be made available to beneficiaries and shall
3553 make that information available to the Commissioner of the Department of Veterans Services for
3554 distribution.

3555 The State Council of Higher Education for Virginia shall be responsible for disbursing to the
3556 institutions the funds appropriated or otherwise made available by the Commonwealth of Virginia to
3557 support the Virginia Military Survivors and Dependents Education Fund and shall report to the
3558 Commissioner of the Department of Veterans Services the beneficiaries' completion rate.

3559 The maximum amount to be expended for each such survivor or dependent pursuant to this
3560 subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the
3561 actual costs related to the survivor's or dependent's educational expenses allowed under this subsection.

3562 4. The Commissioner of the Department of Veterans Services shall designate a senior-level official
3563 who shall be responsible for developing and implementing the agency's strategy for disseminating
3564 information about the Military Survivors and Dependents Education Program to those spouses and

dependents who may qualify. The Department of Veterans Services shall coordinate with the United States Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of the Department of Veterans Services shall report annually to the Governor and the General Assembly as to the agency's policies and strategies relating to dissemination of information about the Program. The report shall also include the number of current beneficiaries, the educational institutions attended by beneficiaries, and the completion rate of the beneficiaries.

B. The surviving spouse and any child between the ages of 16 and 25 whose parent or whose spouse has been killed in the line of duty while employed or serving as a law-enforcement officer, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Department of Virginia Alcoholic Beverage Control Authority, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff, member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code, or member of the Virginia State Defense Force while serving on official state duty, and any person whose spouse was killed in the line of duty while employed or serving in any of such occupations, shall be entitled to free undergraduate tuition and the payment of required fees at any public institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia under the following conditions:

1. The chief administrative executive officer of the Virginia Alcoholic Beverage Control Board Authority, emergency medical services agency, law-enforcement agency, or other appropriate agency or the Superintendent of State Police certifies that the deceased parent or spouse was employed or serving as a law-enforcement officer, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, or member of a rescue squad or in any other capacity as specified in this section and was killed in the line of duty while serving or living in the Commonwealth; and

2. The child or spouse shall have been offered admission to such public institution of higher education or other public accredited postsecondary institution. Any child or spouse who believes he is eligible shall apply to the public institution of higher education or other accredited postsecondary institution to which he has been admitted for the benefits provided by this subsection. The institution shall determine the eligibility of the applicant for these benefits and shall also ascertain that the recipients are in attendance and are making satisfactory progress. The amounts payable for tuition, institutional charges and required fees, and books and supplies for the applicants shall be waived by the institution accepting the students.

C. For the purposes of subsection B, user fees, such as room and board charges, shall not be included in this authorization to waive tuition and fees. However, all required educational and auxiliary fees shall be waived along with tuition.

D. Tuition and required fees may be waived for a student from a foreign country enrolled in a public institution of higher education through a student exchange program approved by such institution, provided the number of foreign students does not exceed the number of students paying full tuition and required fees to the institution under the provisions of the exchange program for a given three-year period.

E. Each public institution of higher education and other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia shall include in its catalogue or equivalent publication a statement describing the benefits provided by subsections A and B.

§ 32.1-357. Board of Trustees; appointment; officers; quorum; executive committee; compensation and expenses.

A. The Foundation shall be governed and administered by a Board of Trustees consisting of 23 members. Two members shall be appointed by the Speaker of the House of Delegates from among the membership of the House of Delegates, one representing rural interests and one representing urban interests; two members shall be appointed by the Senate Committee on Rules, one representing rural interests and one representing urban interests, from among the membership of the Senate; two members shall be the Commissioner of the Department of Health or his designee and the Chairman of the board of directors of the Virginia Alcoholic Beverage Control Board Authority or his designee; and 17 nonlegislative citizen members shall be appointed by the Governor, subject to confirmation by the General Assembly, as follows: (i) five designated representatives of public health organizations, such as the American Cancer Society, American Heart Association, Virginia Pediatric Society, Virginia Academy of Family Physicians, Virginia Dental Association, American Lung Association of Virginia, Medical Society of Virginia, Virginia Association of School Nurses, Virginia Nurses Association, and the Virginia Thoracic Society; (ii) four health professionals in the fields of oncology, cardiology, pulmonary medicine, and pediatrics; and (iii) eight citizens at large, including two youths. Of the eight citizen at large members, three adults shall be appointed by the Governor from a list of six provided by members of the General Assembly appointed to the Foundation and one member who is under the age of 18 years shall be appointed by the Governor from a list of three provided by the members of the General

3626 Assembly appointed to the Foundation.

3627 Legislative members and the Commissioner of the Department of Health and the Chairman of the
 3628 *board of directors of the Virginia Alcoholic Beverage Control Board Authority* shall serve terms
 3629 coincident with their terms of office. Following the initial staggering of terms, nonlegislative citizen
 3630 members shall serve four-year terms. Vacancies in the membership of the Board shall be filled by
 3631 appointment for the unexpired portion of the term. Vacancies shall be filled in the same manner as the
 3632 original appointments. Legislative members may be reappointed for successive terms. No nonlegislative
 3633 citizen member shall be eligible to serve for more than two successive four-year terms; however, after
 3634 the expiration of a term of three years or less, or after the expiration of the remainder of a term to
 3635 which he was appointed to fill a vacancy, two additional terms may be served by such member if
 3636 appointed thereto. Immediately after such appointment, the members shall enter upon the performance of
 3637 their duties.

3638 B. The Foundation shall appoint from the membership of the Board a chairman and vice-chairman,
 3639 both of whom shall serve in such capacities at the pleasure of the Foundation. The chairman, or in his
 3640 absence, the vice-chairman, shall preside at all meetings of the Board. A majority of the members of the
 3641 Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall
 3642 meet annually or more frequently at the call of the chairman.

3643 The Board may establish an executive committee composed of the chairman, vice-chairman, and
 3644 three additional members elected by the Board from its membership. The chairman of the Board shall
 3645 serve as the chairman of the executive committee and shall preside over its meetings. In the absence of
 3646 the chairman, the vice-chairman shall preside. The executive committee may exercise the powers and
 3647 transact the business of the Board in the absence of the Board or when otherwise directed or authorized
 3648 by the Board. A majority of the members of the executive committee shall constitute a quorum for the
 3649 transaction of business. Any actions or business conducted by the executive committee shall be acted
 3650 upon by the full board as soon as practicable.

3651 C. Legislative members shall receive such compensation as provided in § 30-19.12 and nonlegislative
 3652 citizen members shall receive compensation as provided in § 2.2-2813 for their services. All members
 3653 shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties
 3654 as provided by §§ 2.2-2813 and 2.2-2825. Such compensation and expenses shall be paid from the Fund.

3655 D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth
 3656 shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance
 3657 of membership on the Board or his service to the Foundation.

3658 E. Members of the Board and employees of the Foundation shall be subject to the standards of
 3659 conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and
 3660 may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct
 3661 in the manner set forth therein.

3662 § 33.1-252. Free use of toll facilities by certain state officers and employees; penalties.

3663 A. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of
 3664 the Dulles Toll Road during rush hours by the Commonwealth Transportation Board; however,
 3665 notwithstanding the provisions of subdivision B 1 of § 56-543 said vehicles shall not be permitted
 3666 toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988
 3667 (§ 56-535 et seq.). Upon presentation of a toll pass issued pursuant to regulations promulgated by the
 3668 Commonwealth Transportation Board, the following persons may use all toll bridges, toll ferries, toll
 3669 tunnels, and toll roads in this Commonwealth without the payment of toll while in the performance of
 3670 their official duties:

- 3671 1. The Commonwealth Transportation Commissioner;
- 3672 2. Members of the Commonwealth Transportation Board;
- 3673 3. Employees of the Virginia Department of Transportation;
- 3674 4. The Superintendent of the Department of State Police;
- 3675 5. Officers and employees of the Department of State Police;
- 3676 6. Members of the *board of directors of the Virginia Alcoholic Beverage Control Board Authority*;
- 3677 7. Employees of the regulatory and hearings divisions of the ~~Department of Virginia Alcoholic~~
 3678 *Beverage Control Authority* and special agents of the ~~Department of Virginia Alcoholic Beverage~~
 3679 *Control Authority*;
- 3680 8. The Commissioner of the Department of Motor Vehicles;
- 3681 9. Employees of the Department of Motor Vehicles;
- 3682 10. Local police officers;
- 3683 11. Sheriffs and their deputies;
- 3684 12. Regional jail officials;
- 3685 13. Animal wardens;
- 3686 14. The Director and officers of the Department of Game and Inland Fisheries;
- 3687 15. Persons operating fire-fighting equipment and ambulances owned by a political subdivision of the

Commonwealth or a nonprofit association or corporation;

16. Operators of school buses being used to transport pupils to or from schools;

17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;

18. Employees of the Department of Rail and Public Transportation;

19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and

20. Law-enforcement officers of the Virginia Marine Resources Commission.

Notwithstanding the foregoing provision of this subsection requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

a. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner or his designee.

b. Major incidents that may require the temporary suspension of toll collection operations shall include, but not necessarily be limited to (i) natural disasters such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials such as chemical spills; (iii) major traffic accidents such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety.

c. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department for deposit into the toll road fund.

B. Any tollgate keeper who shall refuse to permit the persons listed in subsection A of this section to pass through such tollgate or over such toll bridge or ferry, or toll road or toll tunnel upon presentation of such a toll pass, shall be guilty of a misdemeanor and punished by a fine of not more than \$50, and not less than \$2.50. Any person other than those listed in subsection A who shall exhibit any such toll pass for the purpose of using any toll bridge, toll tunnel or ferry shall be guilty of a Class 1 misdemeanor and punished accordingly.

B1. Any vehicle operated by the holder of a valid driver's license issued by Virginia or any other state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in Virginia if:

1. The vehicle is specially equipped to permit its operation by a handicapped person;

2. The driver of the vehicle has been certified, either by a physician licensed by Virginia or any other state or by the Adjudication Office of the United States Veterans Administration, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments which substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in Virginia. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

C. Nothing contained in this section or in § 33.1-251 or 33.1-285 shall operate to affect the provisions of § 22.1-187.

D. Notwithstanding the provisions of subsections A and B, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commonwealth Transportation Commissioner;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

5. Officers and employees of the Department of State Police;

6. The Commissioner of the Department of Motor Vehicles;

7. Employees of the Department of Motor Vehicles; and

8. Sheriffs and deputy sheriffs.

E. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in

3749 Virginia controlled by the Richmond Metropolitan Authority, pursuant to the requirements of subsection
3750 B1 (1 through 4).

3751 § 48-17.1. Temporary injunctions against alcoholic beverage sales.

3752 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
3753 temporarily enjoin the sale of alcohol at any establishment licensed by the *Virginia* Alcoholic Beverage
3754 Control ~~Board~~ *Authority*. The basis for such petition shall be the operator of the establishment has
3755 allowed it to become a meeting place for persons committing serious criminal violations of the law on
3756 or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to
3757 public safety, as represented in an affidavit by the chief law-enforcement officer of the locality,
3758 supported by records of such criminal acts. The court shall, upon the presentation of evidence at a
3759 hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol at the
3760 establishment, if it appears to the satisfaction of the court that the threat to public safety complained of
3761 exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall
3762 be held within 10 days of service upon the respondent. The respondent shall be served with notice of
3763 the time and place of the hearing and copies of all documentary evidence to be relied upon by the
3764 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court
3765 later finds that the threat to public safety that is the basis of the injunction has been abated by reason of
3766 a change of ownership, management, or business operations at the establishment, or other change in
3767 circumstance.

3768 B. The *Virginia* Alcoholic Beverage Control ~~Board~~ *Authority* shall be given notice of any hearing
3769 under this section. In the event an injunction is granted, the *Virginia* Alcoholic Beverage Control ~~Board~~
3770 *Authority* shall initiate an investigation into the activities at the establishment complained of and conduct
3771 an administrative hearing. After the *Virginia* Alcoholic Beverage Control ~~Board~~ *Authority* hearing and
3772 when a final determination has been issued by the *Virginia* Alcoholic Beverage Control ~~Board~~ *Authority*,
3773 regardless of disposition, any injunction issued hereunder shall be null, without further action by the
3774 complainant, respondent, or the court.

3775 § 51.1-212. Definitions.

3776 As used in this chapter, unless the context requires a different meaning:

3777 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
3778 campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii)
3779 conservation police officer in the Department of Game and Inland Fisheries appointed under the
3780 provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the ~~Department of~~
3781 *Virginia* Alcoholic Beverage Control *Authority* appointed under the provisions of Chapter 1 (§ 4.1-100 et
3782 seq.), (v) law-enforcement officer employed by the *Virginia* Marine Resources Commission as described
3783 in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional
3784 officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole
3785 officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer
3786 employed by the Department of State Police.

3787 "Member" means any person included in the membership of the Retirement System as provided in
3788 this chapter.

3789 "Normal retirement date" means a member's sixtieth birthday.

3790 "Retirement System" means the *Virginia* Law Officers' Retirement System.

3791 § 58.1-3. Secrecy of information; penalties.

3792 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
3793 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
3794 revenue officer or employee, or any person to whom tax information is divulged pursuant to § 58.1-512
3795 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge
3796 any information acquired by him in the performance of his duties with respect to the transactions,
3797 property, including personal property, income or business of any person, firm or corporation. Such
3798 prohibition specifically includes any copy of a federal return or federal return information required by
3799 *Virginia* law to be attached to or included in the *Virginia* return. This prohibition shall apply to any
3800 reports, returns, financial documents or other information filed with the Attorney General pursuant to the
3801 provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the
3802 provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection
3803 shall not be applicable, however, to:

3804 1. Matters required by law to be entered on any public assessment roll or book;

3805 2. Acts performed or words spoken or published in the line of duty under the law;

3806 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
3807 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
3808 its study, provided that any such information obtained shall be privileged;

3809 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any
3810 information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the *Virginia Alcoholic Beverage Control Board Authority*, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings

3872 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any
3873 other officer of any county, city, or town performing any or all of the duties of a commissioner of the
3874 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list
3875 of the names, business addresses, and dates of registration of all dealers registered for such tax; and
3876 (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his
3877 confidential use such tax information as may be necessary to facilitate the collection of the motor
3878 vehicle fuel sales tax. The Tax Commissioner is further authorized to enter into written agreements with
3879 duly constituted tax officials of other states and of the United States for the inspection of tax returns, the
3880 making of audits, and the exchange of information relating to any tax administered by the Department
3881 of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to
3882 the prohibitions and penalties prescribed herein as though he were a tax official.

3883 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
3884 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
3885 stating the reason for such request, the chief executive officer of any county or city with information
3886 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
3887 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
3888 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
3889 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
3890 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
3891 profession or occupation administered by the Department of Professional and Occupational Regulation,
3892 only after the Department of Professional and Occupational Regulation exhausts all other means of
3893 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
3894 association, property owners' association or real estate cooperative association, or to the owner of
3895 property governed by any such association, the names and addresses of parties having a security interest
3896 in real property governed by any such association; however, such information shall be released only
3897 upon written request stating the reason for such request, which reason shall be limited to proposing or
3898 opposing changes to the governing documents of the association, and any information received by any
3899 person under this subsection shall be used only for the reason stated in the written request. The treasurer
3900 or other local assessing official may require any person requesting information pursuant to clause (iii) of
3901 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
3902 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
3903 prescribed herein as though he were a tax official.

3904 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
3905 treasurer or other collector of taxes for a county, city or town is authorized to provide information
3906 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
3907 of performing his duties to the commissioner of the revenue or other assessing official for such
3908 jurisdiction for use by such commissioner or other official in performing assessments.

3909 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
3910 motor vehicle local license decal the year, make, and model and any other legal identification
3911 information about the particular motor vehicle for which that local license decal is assigned.

3912 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
3913 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
3914 written request, the name, address, and social security number of a taxpayer, necessary for the
3915 performance of the Commissioner's official duties regarding the administration and enforcement of laws
3916 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
3917 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
3918 Commissioner of the obligations under this section.

3919 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
3920 any confidential tax document which he knows or has reason to know is a confidential tax document. A
3921 confidential tax document is any correspondence, document, or tax return that is prohibited from being
3922 divulged by subsection A, B, C, or D of this section and includes any document containing information
3923 on the transactions, property, income, or business of any person, firm, or corporation that is required to
3924 be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax
3925 document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any
3926 person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

3927 § 58.1-3651. Property exempt from taxation by classification or designation by ordinance adopted by
3928 local governing body on or after January 1, 2003.

3929 A. Pursuant to subsection 6 (a) (6) of Article X of the Constitution of Virginia, on and after January
3930 1, 2003, any county, city, or town may by designation or classification exempt from real or personal
3931 property taxes, or both, by ordinance adopted by the local governing body, the real or personal property,
3932 or both, owned by a nonprofit organization that uses such property for religious, charitable, patriotic,
3933 historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the

specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

B. Any ordinance exempting property by designation pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town where the real property is located. The notice shall include the assessed value of the real and tangible personal property for which an exemption is requested as well as the property taxes assessed against such property. The public hearing shall not be held until at least five days after the notice is published in the newspaper. The local governing body shall collect the cost of publication from the organization requesting the property tax exemption. Before adopting any such ordinance the governing body shall consider the following questions:

1. Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code of 1954;

2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control ~~Board~~ *Authority* to such organization, for use on such property;

3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;

4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;

5. Whether the organization provides services for the common good of the public;

6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;

7. The revenue impact to the locality and its taxpayers of exempting the property; and

8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

C. Any ordinance exempting property by classification pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town. The public hearing shall not be held until at least five days after the notice is published in the newspaper.

D. Exemptions of property from taxation under this article shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

E. Nothing in this section or in any ordinance adopted pursuant to this section shall affect the validity of either a classification exemption or a designation exemption granted by the General Assembly prior to January 1, 2003, pursuant to Article 2 (§ 58.1-3606 et seq.), 3 (§ 58.1-3609 et seq.) or 4 (§ 58.1-3650 et seq.) of this chapter. An exemption granted pursuant to Article 4 (§ 58.1-3650 et seq.) of this chapter may be revoked in accordance with the provisions of § 58.1-3605.

§ 59.1-148.3. Purchase of handguns of certain officers.

A. The Department of State Police, the Department of Game and Inland Fisheries, the ~~Department of~~ *Virginia Alcoholic Beverage Control Authority*, the State Lottery Department, the Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff, any regional jail board or authority and any local police department may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, and any institution of higher learning named in § 23-14 may allow any campus police officer appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, retiring on or after July 1, 1991, who retires (i) after at least 20 years of service, (ii) at 70 years of age or older after at least 10 years of service, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued to him by the agency or institution at a price of \$1. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also

3995 extend to any person listed above who is eligible for retirement with at least 20 years of service who
3996 resigns on or after July 1, 1991, in good standing from one of the agencies listed above to accept a
3997 position covered by the Virginia Retirement System. Other weapons issued by the Department of State
3998 Police for personal duty use of an officer, may, with approval of the Superintendent, be sold to the
3999 officer subject to the qualifications of this section at a fair market price determined as in subsection B,
4000 so long as the weapon is a type and configuration that can be purchased at a regular hardware or
4001 sporting goods store by a private citizen without restrictions other than the instant background check.

4002 B. The agencies listed above may allow any full-time sworn law-enforcement officer who retires with
4003 10 or more years of service, but less than 20, to purchase the service handgun issued to him by the
4004 agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement.
4005 Any full-time sworn law-enforcement officer employed by any of the agencies listed above who is
4006 retired for disability as a result of a nonservice-incurred disability may purchase the service handgun
4007 issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the
4008 officer's retirement. Determinations of fair market value may be made by reference to a recognized
4009 pricing guide.

4010 C. The agencies listed above may allow the immediate survivor of any full-time sworn
4011 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least
4012 20 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

4013 D. The governing board of any institution of higher learning named in § 23-14 may allow any
4014 campus police officer appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 who retires on or
4015 after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's
4016 fair market value on the date of the officer's retirement. Determinations of fair market value may be
4017 made by reference to a recognized pricing guide.

4018 E. The Department of State Police may allow any full-time sworn state police law-enforcement
4019 officer who retires as a result of a service-incurred disability and who was on disability leave at the time
4020 the Department issued 10-mm semiautomatic handguns to its officers to purchase one of the 10-mm
4021 semiautomatic handguns used by the Department of State Police at a price of \$1.

4022 F. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a
4023 state agency listed in subsection A and who retires after 20 years of state service, even if a portion of
4024 his service was with another state agency, may purchase the service handgun issued to him by the
4025 agency from which he retires at a price of \$1.

4026 G. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
4027 minimum of 15 years of service, upon leaving office, to purchase for \$1 the service handgun issued to
4028 him.

4029 H. Any sheriff or local police department, in accordance with written authorization or approval from
4030 the local governing body, may allow any auxiliary law-enforcement officer with more than 20 years of
4031 service to purchase the service handgun issued to him by the agency at a price that is equivalent to or
4032 less than the weapon's fair market value on the date of purchase by the officer.

4033 I. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
4034 currently employed by the agency to purchase his service handgun, with the approval of the chief
4035 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the
4036 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no
4037 longer used by the agency or officer in the course of duty.

4038 § 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart
4039 disease, cancer.

4040 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of
4041 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such
4042 firefighters or Department of Emergency Management hazardous materials officers resulting in total or
4043 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are
4044 covered by this title unless such presumption is overcome by a preponderance of competent evidence to
4045 the contrary.

4046 B. Hypertension or heart disease causing the death of, or any health condition or impairment
4047 resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State
4048 Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv)
4049 sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers,
4050 (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police
4051 officers, (viii) conservation police officers who are full-time sworn members of the enforcement division
4052 of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the
4053 Department of Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
4054 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports
4055 Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers
4056 of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii)

officers of the police force established and maintained by the Norfolk Airport Authority, and (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed ~~twelve~~ 12 years of continuous service who has a contact with a toxic substance encountered in the line of duty shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, a "toxic substance" is one which is a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and which causes, or is suspected to cause, leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer.

D. The presumptions described in subsections A, B, and C of this section shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer lifesaving and rescue squad members, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, the term "firefighter" shall include special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of any (i) salaried or volunteer firefighter, paramedic or emergency medical technician, (ii) member of the State Police Officers' Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officer, (x) special agent of the ~~Department of Virginia~~ Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, or (xii) sworn officer of the police force established and maintained by the Virginia Port Authority, who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the

4118 occupational exposure to his employer.

4119 B. As used in this section:

4120 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids
4121 to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as
4122 established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis,
4123 meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory,
4124 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which
4125 infectious airborne or blood-borne organisms can be transmitted between persons.

4126 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other
4127 strain of hepatitis generally recognized by the medical community.

4128 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or
4129 type II, causing immunodeficiency syndrome.

4130 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV,
4131 means an exposure that occurs during the performance of job duties that places a covered employee at
4132 risk of infection.

4133 C. Persons covered under this section who test positive for exposure to the enumerated occupational
4134 diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to
4135 make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical
4136 examination to measure the progress of the condition, if any, and any other medical treatment,
4137 prophylactic or otherwise.

4138 D. Whenever any standard, medically-recognized vaccine or other form of immunization or
4139 prophylaxis exists for the prevention of a communicable disease for which a presumption is established
4140 under this section, if medically indicated by the given circumstances pursuant to immunization policies
4141 established by the Advisory Committee on Immunization Practices of the United States Public Health
4142 Service, a person subject to the provisions of this section may be required by such person's employer to
4143 undergo the immunization or prophylaxis unless the person's physician determines in writing that the
4144 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written
4145 declaration, failure or refusal by a person subject to the provisions of this section to undergo such
4146 immunization or prophylaxis shall disqualify the person from any presumption established by this
4147 section.

4148 E. The presumptions described in subsection A of this section shall only apply if persons entitled to
4149 invoke them have, if requested by the appointing authority or governing body employing them,
4150 undergone preemployment physical examinations that (i) were conducted prior to the making of any
4151 claims under this title that rely on such presumptions, (ii) were performed by physicians whose
4152 qualifications are as prescribed by the appointing authority or governing body employing such persons,
4153 (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or
4154 governing bodies may have prescribed, and (iv) found such persons free of hepatitis, meningococcal
4155 meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in
4156 subsection A of this section shall not be effective until six months following such examinations, unless
4157 such persons entitled to invoke such presumption can demonstrate a documented exposure during the
4158 six-month period.

4159 F. Persons making claims under this title who rely on such presumption shall, upon the request of
4160 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)
4161 conducted by physicians selected by such appointing authorities or governing bodies or their
4162 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
4163 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the
4164 election of such claimant, be present at such examination.

4165 **2. That the fourth enactments of Chapters 870 and 932 of the 2007 Acts of Assembly are amended**
4166 **and reenacted as follows:**

4167 **4. That the *Virginia Alcoholic Beverage Control Board Authority* shall assist the Commissioner**
4168 **of Agriculture and Consumer Services in the formation and operation of the nonprofit,**
4169 **nonstock corporation established pursuant to § 3.1-14.01 of this act.**

4170 **4. That the *Virginia Alcoholic Beverage Control Board Authority* shall assist the Commissioner**
4171 **of Agriculture and Consumer Services in the formation and operation of the nonprofit,**
4172 **nonstock corporation established pursuant to § 3.1-14.01 of this act.**

4173 **3. That §§ 4.1-101 and 4.1-102 of the Code of Virginia are repealed.**

4174 **4. That the provisions of this act shall become effective on July 1, 2012.**

4175 **5. That the regulations of the Alcoholic Beverage Control Board promulgated pursuant to Title**
4176 **4.1 of the Code of Virginia shall be administered by the Virginia Alcoholic Beverage Control**
4177 **Authority and shall remain in full force and effect until altered, amended, or rescinded by the**
4178 **Virginia Alcoholic Beverage Control Authority.**

4179 **6. That in the event that ex officio membership on any board, commission, council, committee, or**

other body is affected by the provisions of this act, the Governor shall designate an appropriate successor officer, employee, or member of a board or agency established pursuant to the provisions of this act as a replacement.

7. That the Governor may transfer an appropriation or any portion thereof within a state agency established, abolished or otherwise affected by the provisions of this act, or from one such agency to another, to support the changes in organization or responsibility resulting from or required by the provisions of this act.

8. That as of the effective date of this act, the Virginia Alcoholic Beverage Control Authority shall be deemed successor in interest to the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Board to the extent this act transfers powers and duties. All right, title and interest in and to real or tangible personal property vested in the Department of Alcoholic Beverage Control or the Alcoholic Beverage Control Board to the extent that this act transfers powers and duties as of the effective date of this act shall be transferred and taken as standing in the name of the Virginia Alcoholic Beverage Control Authority.

9. That wherever in the Code of Virginia the term "Department of Alcoholic Beverage Control" or "Alcoholic Beverage Control Board" is used, it shall be deemed to mean the Virginia Alcoholic Beverage Control Authority.

10. That any accrued sick leave or annual leave of any employee of the Department of Alcoholic Beverage Control who transfers to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall transfer with the employee.