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HOUSE BILL NO. 981

Offered January 8, 2014

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A BILL to amend and reenact §§ 2.2-509.1, 4.1-100, 4.1-107, 4.1-204, 4.1-325, 4.1-335, 9.1-101, 18.2-57, 18.2-371.2, 19.2-81, 33.1-252, and 65.2-402 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 4.1-101.01 and 52-8.1:2 and by adding in Title 52 a chapter numbered 12, containing a section numbered 52-50; and to repeal §§ 4.1-103.01 and 4.1-105 of the Code of Virginia, relating to alcoholic beverage control; certain tobacco laws; enforcement by the Department of State Police; penalty.

Patron—Cline

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-509.1, 4.1-100, 4.1-107, 4.1-204, 4.1-325, 4.1-335, 9.1-101, 18.2-57, 18.2-371.2, 19.2-81, 33.1-252, and 65.2-402 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 4.1-101.01 and 52-8.1:2 and by adding in Title 52 a chapter numbered 12, containing a section numbered 52-50, as follows:

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

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

§ 4.1-100. Definitions.

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

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

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

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

"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 Virginia Alcoholic Beverage Control Board.

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

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

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

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

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

76 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains  
77 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,  
78 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with  
79 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility  
80 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied  
81 the grapes, fruits, or other agricultural products used in the production of the wine. The contract  
82 winemaking facility shall have no right to sell the wine so produced but may charge the farm winery for  
83 its services.

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

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

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

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

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

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

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

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

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

- 121 "Government store" means a store established by the Board for the sale of alcoholic beverages.
- 122 "Hotel" means any duly licensed establishment, provided with special space and accommodation,  
123 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has  
124 four or more bedrooms. It shall also mean the person who operates such hotel.
- 125 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order  
126 pursuant to this title.
- 127 "Internet wine retailer" means a person who owns or operates an establishment with adequate  
128 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone  
129 orders are taken and shipped directly to consumers and which establishment is not a retail store open to  
130 the public.
- 131 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to  
132 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.
- 133 "Licensed" means the holding of a valid license issued by the Board.
- 134 "Licensee" means any person to whom a license has been granted by the Board.
- 135 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol  
136 content of 25 percent by volume.
- 137 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol  
138 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits  
139 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit  
140 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by  
141 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of  
142 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved  
143 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be  
144 sold for on-premises consumption other than by mixed beverage licensees.
- 145 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for  
146 off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen  
147 facilities located at the establishment.
- 148 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona  
149 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments  
150 specializing in full course meals with a single substantial entree.
- 151 "Member of a club" means (i) a person who maintains his membership in the club by the payment of  
152 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)  
153 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal  
154 descendants of a bona fide member, whether alive or deceased, of a national or international  
155 organization to which an individual lodge holding a club license is an authorized member in the same  
156 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the  
157 annual dues of resident members of the club, the full amount of such contribution being paid in advance  
158 in a lump sum.
- 159 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of  
160 spirits.
- 161 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,  
162 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives  
163 which are not commonly consumed unless combined with alcoholic beverages, whether or not such  
164 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a  
165 Virginia corporation.
- 166 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
167 designated in the application for a license as the place at which the manufacture, bottling, distribution,  
168 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other  
169 improvement actually and exclusively used as a private residence.
- 170 "Public place" means any place, building, or conveyance to which the public has, or is permitted to  
171 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,  
172 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any  
173 highway, street, or lane.
- 174 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private  
175 meetings or private parties limited in attendance to members and guests of a particular group,  
176 association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or  
177 similar facilities while such restaurant is closed to the public and in use for private meetings or parties  
178 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such  
179 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in  
180 use for private meetings or parties limited in attendance to employees and nonpaying guests of the  
181 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats

182 which are not licensed by the Board and on which alcoholic beverages are not sold.

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

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

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

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

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

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

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

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

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

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

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

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

232 **§ 4.1-101.01. Investigation and enforcement of this title vested in the Department of State Police.**

233 *The Department of State Police, in cooperation with the Board, shall investigate and enforce the*  
234 *provisions of this title and Board regulations.*

235 **§ 4.1-107. Counsel for members and employees of Board.**

236 If any member, ~~agent~~, or employee of the Board shall be arrested, indicted, or otherwise prosecuted  
237 on any charge arising out of any act committed in the discharge of his official duties, the Board  
238 chairman may employ special counsel approved by the Attorney General to defend such member, ~~agent~~,  
239 or employee. The compensation for special counsel employed pursuant to this section, shall, subject to  
240 the approval of the Attorney General, be paid in the same manner as other expenses incident to the  
241 administration of this title are paid.

242 **§ 4.1-204. Records of licensees; inspection of records and places of business.**

243 A. Manufacturers, bottlers or wholesalers. - Every licensed manufacturer, bottler or wholesaler shall

244 keep complete, accurate and separate records in accordance with Board regulations of all alcoholic  
 245 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by  
 246 § 4.1-234 or 4.1-236, if any.

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

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

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

266 E. Delivery permittees. - Every holder of a delivery permit issued pursuant to § 4.1-212.1 shall keep  
 267 complete, accurate, and separate records in accordance with Board regulations of all deliveries of wine  
 268 or beer to persons in the Commonwealth. Such permittees shall also remit on a monthly basis an  
 269 accurate account that sets forth the total quantities of wine and beer sold and the total price charged for  
 270 such wine and beer. Such records shall include the names and addresses of the purchasers to whom the  
 271 wine and beer is delivered. If no wine or beer was sold and delivered in any month, the permittee shall  
 272 not be required to submit a report to the Board for that month; however, every permittee must submit a  
 273 report to the Board no less frequently than once every 12 months even if no sales or deliveries have  
 274 been made in the preceding 12 months.

275 F. Inspection. - The Board and ~~its special agents~~ *the Department of State Police* shall be allowed free  
 276 access during reasonable hours to every place in the Commonwealth and to the premises of both (i)  
 277 every wine shipper licensee and beer shipper licensee and (ii) every delivery permittee wherever located  
 278 where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of  
 279 examining and inspecting such place and all records, invoices and accounts therein. The Board may  
 280 engage the services of alcoholic beverage control authorities in any state to assist with the inspection of  
 281 the premises of a wine shipper licensee, a beer shipper licensee, or delivery permittee, or any applicant  
 282 for such license or permit.

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

289 **§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.**

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

- 292 1. Sell or serve any alcoholic beverage other than as authorized by law;
- 293 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
- 294 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of  
 295 this title;
- 296 4. Keep at the place described in his license any alcoholic beverage other than that which he is  
 297 licensed to sell;

298 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

299 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by  
 300 him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink  
 301 dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by  
 302 the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board  
 303 regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee  
 304 from pre-mixing containers of sangria to be served and sold for consumption on the licensed premises;

305 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper  
 306 with the contents of any bottle or container of alcoholic beverage, except as provided by Board  
 307 regulation adopted pursuant to § 4.1-111 B 11;

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

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

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

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

316 12. Allow any striptease act on the licensed premises;

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

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

320 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee  
 321 from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative  
 322 of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of  
 323 the Board who represents a distiller, if such samples are provided in accordance with Board regulations  
 324 and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of  
 325 § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for  
 326 quality control purposes;

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

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

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

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

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

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

337 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or  
 338 obstruct ~~special agents of the Board~~ *police officers of the Department of State Police* in the discharge of  
 339 their duties;

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

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

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

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

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

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

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

365 **§ 4.1-335. Enjoining nuisances.**

366 A. In addition to the penalties imposed by § 4.1-317, the Board, ~~its special agents~~ *the Department of*

367 *State Police*, the attorney for the Commonwealth, or any citizen of the county, city, or town where a  
 368 common nuisance as defined in § 4.1-317 exists may maintain a suit in equity in the name of the  
 369 Commonwealth to enjoin the common nuisance.

370 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the  
 371 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that alcoholic  
 372 beverages are manufactured, stored, sold, dispensed, given away, or used in such house, building or  
 373 other place described in § 4.1-317 contrary to the laws of the Commonwealth, an injunction shall be  
 374 granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the owners,  
 375 tenants, their agents, employees, servants, and any person connected with such house, building or other  
 376 place, and all persons whomsoever from manufacturing, storing, selling, dispensing, giving away, or  
 377 using alcoholic beverages on such premises. The injunction shall also restrain all persons from removing  
 378 any alcoholic beverage then on such premises until the further order of the court. If the court is satisfied  
 379 that the material allegations of the bill are true, although the premises complained of may not then be  
 380 unlawfully used, it shall continue the injunction against such place for a period of time as the court  
 381 deems proper. The injunction may be dissolved if a proper case is shown for dissolution.

382 **§ 9.1-101. Definitions.**

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

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

389 "Board" means the Criminal Justice Services Board.

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

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

395 "Criminal history record information" means records and data collected by criminal justice agencies  
 396 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,  
 397 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall  
 398 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title  
 399 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional  
 400 status information.

401 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof  
 402 which as its principal function performs the administration of criminal justice and any other agency or  
 403 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for  
 404 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,  
 405 within the context of its criminal justice activities, employs officers appointed under § 15.2-1737, or  
 406 special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of  
 407 Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators  
 408 or special policemen to meet compulsory training standards established by the Criminal Justice Services  
 409 Board and submits reports of compliance with the training standards and (b) the private corporation or  
 410 agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the  
 411 private corporation or agency so designated as a criminal justice agency performs criminal justice  
 412 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise  
 413 permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment  
 414 of Sexually Violent Predators Act (§ 37.2-900 et seq.).

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

416 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to  
 417 § 18.2-271.2.

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

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

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

426 "Law-enforcement officer" means any full-time or part-time employee of a police department or  
 427 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision

428 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the  
 429 penal, traffic or highway laws of the Commonwealth, and shall include any (i) ~~special agent of the~~  
 430 ~~Department of Alcoholic Beverage Control~~; (ii) police agent appointed under the provisions of §  
 431 56-353; (iii) (ii) officer of the Virginia Marine Police; (iv) (iii) conservation police officer who is a  
 432 full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries;  
 433 ~~(v) (iv) investigator who is a full-time sworn member of the security division of the State Lottery~~  
 434 ~~Department~~; ~~(vi) (v) conservation officer of the Department of Conservation and Recreation~~  
 435 ~~commissioned pursuant to § 10.1-115~~; ~~(vii) (vi) full-time sworn member of the enforcement division of~~  
 436 ~~the Department of Motor Vehicles appointed pursuant to § 46.2-217~~; ~~(viii) (vii) animal protection police~~  
 437 ~~officer employed under § 15.2-632~~; or (ix) (viii) campus police officer appointed under Chapter 17  
 438 (§ 23-232 et seq.) of Title 23. Part-time employees are those compensated officers who are not full-time  
 439 employees as defined by the employing police department or sheriff's office.

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

443 "School security officer" means an individual who is employed by the local school board for the  
 444 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school  
 445 board policies, and detaining students violating the law or school board policies on school property or at  
 446 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of  
 447 all students, faculty, staff, and visitors in the assigned school.

448 **§ 18.2-57. Assault and battery.**

449 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1  
 450 misdemeanor, and if the person intentionally selects the person against whom a simple assault is  
 451 committed because of his race, religious conviction, color or national origin, the penalty upon conviction  
 452 shall include a term of confinement of at least six months, 30 days of which shall be a mandatory  
 453 minimum term of confinement.

454 B. However, if a person intentionally selects the person against whom an assault and battery resulting  
 455 in bodily injury is committed because of his race, religious conviction, color or national origin, the  
 456 person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of  
 457 confinement of at least six months, 30 days of which shall be a mandatory minimum term of  
 458 confinement.

459 C. In addition, if any person commits an assault or an assault and battery against another knowing or  
 460 having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as  
 461 defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the  
 462 care, treatment, or supervision of inmates in the custody of the Department of Corrections or an  
 463 employee of a local or regional correctional facility directly involved in the care, treatment, or  
 464 supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or  
 465 supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice,  
 466 an employee or other individual who provides control, care, or treatment of sexually violent predators  
 467 committed to the custody of the Department of Behavioral Health and Developmental Services, a  
 468 firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services  
 469 personnel member who is employed by or is a volunteer of an emergency medical services agency or as  
 470 a member of a bona fide volunteer fire department or volunteer emergency medical services agency,  
 471 regardless of whether a resolution has been adopted by the governing body of a political subdivision  
 472 recognizing such firefighters or emergency medical services personnel as employees, engaged in the  
 473 performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the  
 474 sentence of such person shall include a mandatory minimum term of confinement of six months.

475 Nothing in this subsection shall be construed to affect the right of any person charged with a  
 476 violation of this section from asserting and presenting evidence in support of any defenses to the charge  
 477 that may be available under common law.

478 D. In addition, if any person commits a battery against another knowing or having reason to know  
 479 that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance  
 480 counselor of any public or private elementary or secondary school and is engaged in the performance of  
 481 his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon  
 482 conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum  
 483 term of confinement. However, if the offense is committed by use of a firearm or other weapon  
 484 prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum  
 485 sentence of confinement of six months.

486 E. In addition, any person who commits a battery against another knowing or having reason to know  
 487 that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the  
 488 performance of his duties as an emergency health care provider in an emergency room of a hospital or  
 489 clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1

490 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15  
491 days in jail, two days of which shall be a mandatory minimum term of confinement.

492 F. As used in this section:

493 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge  
494 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore  
495 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'  
496 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute  
497 judge of such district court.

498 "Law-enforcement officer" means any full-time or part-time employee of a police department or  
499 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof  
500 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or  
501 highway laws of the Commonwealth, any conservation officer of the Department of Conservation and  
502 Recreation commissioned pursuant to § 10.1-115, ~~any special agent of the Department of Alcoholic~~  
503 ~~Beverage Control, any conservation police officers officer~~ appointed pursuant to § 29.1-200, ~~and any~~  
504 ~~full-time sworn members~~member of the enforcement division of the Department of Motor Vehicles  
505 appointed pursuant to § 46.2-217, ~~and such officer also includes any jail officers officer~~ in local and  
506 regional correctional facilities, ~~all any deputy sheriffs~~sheriff, whether assigned to law-enforcement  
507 duties, court services or local jail responsibilities, ~~any auxiliary police officers officer~~ appointed or  
508 provided for pursuant to §§ 15.2-1731 and 15.2-1733, ~~any auxiliary deputy sheriffs~~sheriff appointed  
509 pursuant to § 15.2-1603, ~~any police officers officer~~ of the Metropolitan Washington Airports Authority  
510 pursuant to § 5.1-158, and ~~any fire marshals~~marshal appointed pursuant to § 27-30 when such fire  
511 ~~marshals have~~marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1.

512 "School security officer" means an individual who is employed by the local school board for the  
513 purpose of maintaining order and discipline, preventing crime, investigating violations of school board  
514 policies and detaining persons violating the law or school board policies on school property, a school  
515 bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and  
516 welfare of all students, faculty and staff in the assigned school.

517 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any  
518 teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school  
519 bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the  
520 following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain  
521 order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from  
522 the scene of a disturbance that threatens physical injury to persons or damage to property; (iii)  
523 reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv)  
524 reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary  
525 force to obtain possession of weapons or other dangerous objects or controlled substances or associated  
526 paraphernalia that are upon the person of the student or within his control.

527 In determining whether a person was acting within the exceptions provided in this subsection, due  
528 deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal,  
529 assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at  
530 the time of the event.

531 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products by minors or sale of**  
532 **tobacco products to minors.**

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

536 Tobacco products may be sold from a vending machine only if the machine is (i) posted with a  
537 notice, in a conspicuous manner and place, indicating that the purchase or possession of tobacco  
538 products by minors is unlawful and (ii) located in a place which is not open to the general public and is  
539 not generally accessible to minors. An establishment which prohibits the presence of minors unless  
540 accompanied by an adult is not open to the general public.

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

548 C. No person shall sell a tobacco product, including but not limited to cigarettes, cigars, bidis, and  
549 wrappings, to any individual who does not demonstrate, by producing a driver's license or similar photo  
550 identification issued by a government agency, that the individual is at least 18 years of age. Such

551 identification is not required from an individual whom the person has reason to believe is at least 18  
 552 years of age or who the person knows is at least 18 years of age. Proof that the person demanded, was  
 553 shown, and reasonably relied upon a photo identification stating that the individual was at least 18 years  
 554 of age shall be a defense to any action brought under this subsection. In determining whether a person  
 555 had reason to believe an individual is at least 18 years of age, the trier of fact may consider, but is not  
 556 limited to, proof of the general appearance, facial characteristics, behavior and manner of the individual.

557 This subsection shall not apply to mail order sales.

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

562 A violation of subsection A or C by an individual or by a separate retail establishment that involves  
 563 the sale, distribution or purchase of a bidi shall be punishable by a civil penalty in the amount of \$500  
 564 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in  
 565 the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers  
 566 proof that it has trained its employees concerning the requirements of this section, the court shall  
 567 suspend all of the penalties imposed hereunder. However, where the court finds that a retail  
 568 establishment has failed to so train its employees, the court may impose a civil penalty not to exceed  
 569 \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a  
 570 tobacco product other than a bidi.

571 A violation of subsection B shall be punishable by a civil penalty not to exceed \$100 for a first  
 572 violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as  
 573 an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to  
 574 20 hours of community service for a first violation of subsection B and up to 40 hours of community  
 575 service for a second or subsequent violation. If the defendant fails or refuses to complete the community  
 576 service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the  
 577 judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

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

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

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

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

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

598 G. ~~Agents of the Virginia Alcoholic Beverage Control Board designated pursuant to § 4-1-105 Police~~  
 599 ~~officers of the Department of State Police~~ may issue a summons for any violation of this section.

600 H. As used in this section:

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

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

606 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

607 A. The following officers shall have the powers of arrest as provided in this section:

608 1. Members of the State Police force of the Commonwealth;

609 2. Sheriffs of the various counties and cities, and their deputies;

610 3. Members of any county police force or any duly constituted police force of any city or town of  
 611 the Commonwealth;

612 4. The Commissioner, members and employees of the Marine Resources Commission granted the

613 power of arrest pursuant to § 28.2-900;

614 5. Regular conservation police officers appointed pursuant to § 29.1-200;

615 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and  
616 petty officers authorized under § 29.1-205 to make arrests;

617 7. The special policemen of the counties as provided by § 15.2-1737, provided such officers are in  
618 uniform, or displaying a badge of office;

619 8. Conservation officers appointed pursuant to § 10.1-115;

620 9. Full-time sworn members of the enforcement division of the Department of Motor Vehicles  
621 appointed pursuant to § 46.2-217; and

622 10. ~~Special agents of the Department of Alcoholic Beverage Control; and~~

623 ~~±. Campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.~~

624 B. Such officers may arrest without a warrant any person who commits any crime in the presence of  
625 the officer and any person whom he has reasonable grounds or probable cause to suspect of having  
626 committed a felony not in his presence.

627 Such officers may arrest without a warrant any person whom the officer has probable cause to  
628 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of  
629 § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii)  
630 in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the  
631 person arrested to another officer, who may obtain a warrant based upon statements made to him by the  
632 arresting officer.

633 C. (Effective until July 1, 2014) Any such officer may, at the scene of any accident involving a  
634 motor vehicle, watercraft as defined in § 29.1-712 or motorboat, or at any hospital or medical facility to  
635 which any person involved in such accident has been transported, or in the apprehension of any person  
636 charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth,  
637 upon reasonable grounds to believe, based upon personal investigation, including information obtained  
638 from eyewitnesses, that a crime has been committed by any person then and there present, apprehend  
639 such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall  
640 include a reasonable location where a vehicle or person involved in an accident has been moved at the  
641 direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of  
642 the motoring public.

643 C. (Effective July 1, 2014) Any such officer may, at the scene of any accident involving a motor  
644 vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to  
645 which any person involved in such accident has been transported, or in the apprehension of any person  
646 charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth,  
647 upon reasonable grounds to believe, based upon personal investigation, including information obtained  
648 from eyewitnesses, that a crime has been committed by any person then and there present, apprehend  
649 such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall  
650 include a reasonable location where a vehicle or person involved in an accident has been moved at the  
651 direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of  
652 the motoring public.

653 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any  
654 location any person whom the officer has probable cause to suspect of driving or operating a motor  
655 vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or  
656 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the  
657 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,  
658 within three hours of the alleged offense, arrest without a warrant at any location any person whom the  
659 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order  
660 issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

661 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in  
662 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,  
663 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,  
664 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a  
665 reasonably accurate description of such person wanted and the crime alleged.

666 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not  
667 committed in his presence when the officer receives a radio message from his department or other  
668 law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

669 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in  
670 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,  
671 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)  
672 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of  
673 § 18.2-137, when such property is located on premises used for business or commercial purposes, or a

674 similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of  
 675 the person who observed the alleged offense. The arresting officer may issue a summons to any person  
 676 arrested under this section for a misdemeanor violation involving shoplifting.

677 **§ 33.1-252. Free use of toll facilities by certain state officers and employees; penalties.**

678 A. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of  
 679 the Dulles Toll Road during rush hours by the Commonwealth Transportation Board; however,  
 680 notwithstanding the provisions of subdivision B 1 of § 56-543 said vehicles shall not be permitted  
 681 toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988  
 682 (§ 56-535 et seq.). Upon presentation of a toll pass issued pursuant to regulations promulgated by the  
 683 Commonwealth Transportation Board, the following persons may use all toll bridges, toll ferries, toll  
 684 tunnels, and toll roads in this Commonwealth without the payment of toll while in the performance of  
 685 their official duties:

- 686 1. The Commissioner of Highways;
- 687 2. Members of the Commonwealth Transportation Board;
- 688 3. Employees of the Virginia Department of Transportation;
- 689 4. The Superintendent of the Department of State Police;
- 690 5. Officers and employees of the Department of State Police;
- 691 6. Members of the Alcoholic Beverage Control Board;
- 692 7. Employees of the regulatory and hearings divisions of the Department of Alcoholic Beverage  
 693 Control and special agents of the Department of Alcoholic Beverage Control;
- 694 8. The Commissioner of the Department of Motor Vehicles;
- 695 9. Employees of the Department of Motor Vehicles;
- 696 10. Local police officers;
- 697 11. Sheriffs and their deputies;
- 698 12. Regional jail officials;
- 699 13. Animal wardens;
- 700 14. The Director and officers of the Department of Game and Inland Fisheries;
- 701 15. Persons operating fire-fighting equipment and ambulances owned by a political subdivision of the  
 702 Commonwealth or a nonprofit association or corporation;
- 703 16. Operators of school buses being used to transport pupils to or from schools;
- 704 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the  
 705 driver, and used to regularly transport workers to and from their places of employment and (ii) public  
 706 transit buses;
- 707 18. Employees of the Department of Rail and Public Transportation;
- 708 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation  
 709 Act of 1988; and
- 710 20. Law-enforcement officers of the Virginia Marine Resources Commission.

711 Notwithstanding the foregoing provision of this subsection requiring presentation of a toll pass for  
 712 toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on  
 713 the highways of the Commonwealth, the Department shall, in order to alleviate an actual or potential  
 714 threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll  
 715 facility by permitting the temporary suspension of toll collection operations on its facilities.

716 a. The assessment of the threat to public safety shall be performed and the decision temporarily to  
 717 suspend toll collection operations shall be made by the Commissioner or his designee.

718 b. Major incidents that may require the temporary suspension of toll collection operations shall  
 719 include, but not necessarily be limited to (i) natural disasters such as hurricanes, tornadoes, fires, and  
 720 floods; (ii) accidental releases of hazardous materials such as chemical spills; (iii) major traffic accidents  
 721 such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety.

722 c. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable  
 723 for any incident resulting in the suspension of toll collections as provided in this subsection, the court  
 724 may assess against the person an amount equal to lost toll revenue as a part of the costs of the  
 725 proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the  
 726 Department for deposit into the toll road fund.

727 B. Any tollgate keeper who shall refuse to permit the persons listed in subsection A of this section to  
 728 pass through such tollgate or over such toll bridge or ferry, or toll road or toll tunnel upon presentation  
 729 of such a toll pass, shall be guilty of a misdemeanor and punished by a fine of not more than \$50, and  
 730 not less than \$2.50. Any person other than those listed in subsection A who shall exhibit any such toll  
 731 pass for the purpose of using any toll bridge, toll tunnel or ferry shall be guilty of a Class 1  
 732 misdemeanor and punished accordingly.

733 B1. Any vehicle operated by the holder of a valid driver's license issued by Virginia or any other  
 734 state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in Virginia if:

- 735 1. The vehicle is specially equipped to permit its operation by a handicapped person;

736 2. The driver of the vehicle has been certified, either by a physician licensed by Virginia or any  
 737 other state or by the Adjudication Office of the United States Veterans Administration, as being severely  
 738 physically disabled and having permanent upper limb mobility or dexterity impairments which  
 739 substantially impair his ability to deposit coins in toll baskets;

740 3. The driver has applied for and received from the Department of Transportation a vehicle window  
 741 sticker identifying him as eligible for such free passage; and

742 4. Such identifying window sticker is properly displayed on the vehicle.

743 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in  
 744 Virginia. The Department of Transportation shall provide envelopes for payments of tolls by those  
 745 persons exempted from tolls pursuant to this subsection and shall accept any payments made by such  
 746 persons.

747 C. Nothing contained in this section or in § 33.1-251 or 33.1-285 shall operate to affect the  
 748 provisions of § 22.1-187.

749 D. Notwithstanding the provisions of subsections A and B, only the following persons may use the  
 750 Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Authority, or facilities of an  
 751 operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995  
 752 (§ 56-556 et seq.) without the payment of toll when necessary and incidental to the conduct of official  
 753 business:

754 1. The Commissioner of Highways;

755 2. Members of the Commonwealth Transportation Board;

756 3. Employees of the Department of Transportation;

757 4. The Superintendent of the Department of State Police;

758 5. Officers and employees of the Department of State Police;

759 6. The Commissioner of the Department of Motor Vehicles;

760 7. Employees of the Department of Motor Vehicles; and

761 8. Sheriffs and deputy sheriffs.

762 E. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in  
 763 Virginia controlled by the Richmond Metropolitan Authority, pursuant to the requirements of  
 764 subdivisions 1 through 4 of subsection B1.

765 **§ 52-8.1:2. Powers and duties for certain tobacco law enforcement and investigation; access to**  
 766 **certain tobacco sales records; inspections; penalty.**

767 A. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Tax Commissioner  
 768 shall provide to the Department of State Police the name, address, and other identifying information  
 769 within his possession of all wholesale cigarette dealers.

770 B. All invoices, books, papers, or other memoranda and records concerning the sale of cigarettes  
 771 maintained by wholesale cigarette dealers pursuant to § 58.1-1007 shall be subject to inspection during  
 772 normal business hours by the Department of State Police. Any person who, upon request by a police  
 773 officer of the Department of State Police, unreasonably fails or refuses to allow an inspection of the  
 774 records authorized by this subsection is guilty of a Class 2 misdemeanor.

775 C. The Department of State Police may use the information obtained from the Tax Commissioner or  
 776 by the inspections authorized by subsection B only for the purpose of creating and maintaining a list of  
 777 retail dealers to facilitate enforcement of the laws governing the sale of tobacco products to minors.  
 778 Neither the Department of State Police nor any police officer of the Department of State Police shall  
 779 divulge any information provided by the Tax Commissioner or obtained in the performance of the  
 780 inspections authorized by subsection B to anyone other than to another police officer of the Department  
 781 of State Police. Any person violating the provisions of this subsection is guilty of a Class 2  
 782 misdemeanor.

783 **CHAPTER 12.**

784 **ENFORCEMENT OF ALCOHOLIC BEVERAGE CONTROL LAWS.**

785 **§ 52-50. Department of State Police responsible for enforcement of alcoholic beverage control**  
 786 **laws; certain information not to be made public.**

787 The Department of State Police shall be responsible for the investigation and enforcement of all  
 788 alcoholic beverage control laws set forth in Title 4.1 or any other provision of law.

789 The provisions of § 4.1-118 shall apply to the Department of State Police and any police officers of  
 790 the Department of State Police.

791 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or**  
 792 **heart disease, cancer.**

793 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of  
 794 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such  
 795 firefighters or Department of Emergency Management hazardous materials officers resulting in total or  
 796 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are

797 covered by this title unless such presumption is overcome by a preponderance of competent evidence to  
798 the contrary.

799 B. Hypertension or heart disease causing the death of, or any health condition or impairment  
800 resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State  
801 Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv)  
802 sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers,  
803 (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police  
804 officers, (viii) conservation police officers who are full-time sworn members of the enforcement division  
805 of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) ~~special agents of the~~  
806 ~~Department of Alcoholic Beverage Control appointed under the provisions of Chapter 4 (§ 4.1-100 et~~  
807 ~~seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily~~  
808 ~~subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force~~  
809 ~~established and maintained by the Metropolitan Washington Airports Authority, (xii)(xi) officers of the~~  
810 ~~police force established and maintained by the Norfolk Airport Authority, (xiii)(xii) sworn officers of the~~  
811 ~~police force established and maintained by the Virginia Port Authority, and (xiv)(xiii) campus police~~  
812 ~~officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 and employed by any public~~  
813 ~~institution of higher education shall be presumed to be occupational diseases, suffered in the line of~~  
814 ~~duty, that are covered by this title unless such presumption is overcome by a preponderance of~~  
815 ~~competent evidence to the contrary.~~

816 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer causing the death of, or  
817 any health condition or impairment resulting in total or partial disability of, any volunteer or salaried  
818 firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle  
819 enforcement officer or motor carrier safety trooper employed by the Department of State Police, or  
820 full-time sworn member of the enforcement division of the Department of Motor Vehicles having  
821 completed twelve years of continuous service who has a contact with a toxic substance encountered in  
822 the line of duty shall be presumed to be an occupational disease, suffered in the line of duty, that is  
823 covered by this title, unless such presumption is overcome by a preponderance of competent evidence to  
824 the contrary. For the purposes of this section, a "toxic substance" is one which is a known or suspected  
825 carcinogen, as defined by the International Agency for Research on Cancer, and which causes, or is  
826 suspected to cause, leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer.

827 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to  
828 invoke them have, if requested by the private employer, appointing authority or governing body  
829 employing them, undergone preemployment physical examinations that (i) were conducted prior to the  
830 making of any claims under this title that rely on such presumptions, (ii) were performed by physicians  
831 whose qualifications are as prescribed by the private employer, appointing authority or governing body  
832 employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the  
833 private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such  
834 persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such  
835 examinations.

836 E. Persons making claims under this title who rely on such presumptions shall, upon the request of  
837 private employers, appointing authorities or governing bodies employing such persons, submit to  
838 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or  
839 their representatives and (ii) consisting of such tests and studies as may reasonably be required by such  
840 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the  
841 election of such claimant, be present at such examination.

842 F. Whenever a claim for death benefits is made under this title and the presumptions of this section  
843 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private  
844 employer, appointing authority or governing body that had employed the deceased, submit the body of  
845 the deceased to a postmortem examination as may be directed by the Commission. A qualified  
846 physician, selected and compensated by the person entitled to make the claim, may, at the election of  
847 such claimant, be present at such postmortem examination.

848 G. Volunteer lifesaving and rescue squad members, volunteer law-enforcement chaplains, auxiliary  
849 and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this  
850 section.

851 H. For purposes of this section, the term "firefighter" shall include special forest wardens designated  
852 pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers  
853 primarily to perform firefighting services.

854 **2. That §§ 4.1-103.01 and 4.1-105 of the Code of Virginia are repealed.**

855 **3. That the provisions of this act shall become effective on July 1, 2015.**

856 **4. That the Governor may transfer an appropriation or any portion thereof within a state agency**  
857 **established, abolished, or otherwise affected by the provisions of this act, or from one such agency**  
858 **to another, to support the changes in organization or responsibility resulting from or required by**

859 the provisions of this act.

860 5. That wherever in the Code of Virginia the term "special agent of the Alcoholic Beverage  
861 Control Board" is used, it shall be deemed to mean the Department of State Police.

862 6. That any accrued sick leave or annual leave of any special agent of the Department of Alcoholic  
863 Beverage Control who transfers to the Department of State Police in accordance with the  
864 provisions of this act shall transfer with the special agent.

865 7. Notwithstanding any other provision of law, the Department of State Police shall give preference  
866 to special agents of the Alcoholic Beverage Control Board for employment at the Department of  
867 State Police. The Superintendent of the Department of State Police shall issue a written notice to  
868 all special agents of the Alcoholic Beverage Control Board whose employment at the Department  
869 of Alcoholic Beverage Control is affected by this act. The date upon which such written notice is  
870 issued shall be referred to herein as the "Option Date." Each person whose employment will be  
871 transferred to the Department of State Police may, by written request made within 180 days of the  
872 Option Date, elect not to become employed by the Department of State Police. Any special agent  
873 of the Department of Alcoholic Beverage Control who (i) elects not to become employed by the  
874 Department of State Police and who is not reemployed by any department, institution, board,  
875 commission, or agency of the Commonwealth; (ii) is not offered the opportunity to transfer to  
876 employment by the Department of State Police; or (iii) is not offered a position with the  
877 Department of State Police for which the special agent is qualified or is offered a position that  
878 requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred  
879 by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq. of the Code of Virginia). Any  
880 special agent who accepts employment with the Department of State Police shall not be considered  
881 to be involuntarily separated from state employment and shall not be eligible for the severance  
882 benefits conferred by the provisions of the Workforce Transition Act.

883 8. Notwithstanding any other provision of law to the contrary, any person whose employment is  
884 transferred to the Department of State Police as a result of this act and who is a member of any  
885 plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title  
886 2.2 of the Code of Virginia shall continue to be a member of such health insurance plan under the  
887 same terms and conditions as if no transfer had occurred.

888 9. Notwithstanding any other provision of law to the contrary, any person whose employment is  
889 transferred to the Department of State Police as a result of this act and who is a member of the  
890 Virginia Retirement System or other retirement plan as authorized by Chapter 2 (§ 51.1-200 et  
891 seq.) of Title 51.1 of the Code of Virginia shall continue to be a member of the Virginia  
892 Retirement System or other such authorized retirement plan under the same terms and conditions  
893 as if no transfer had occurred.