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HOUSE BILL NO. 981

Offered January 8, 2014

Prefiled January 8, 2014

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.

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Public place" means any place, building, or conveyance to which the public has, or is permitted to 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 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this title;
4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by 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;

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*

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

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

§ 9.1-101. Definitions.

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

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

"Board" means the Criminal Justice Services Board.

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

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

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

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

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

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

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

"Department" means the Department of Criminal Justice Services.

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

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

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

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

"School security officer" means an individual who is employed by the local school board for the 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.

§ 18.2-57. Assault and battery.

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

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

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

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

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

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

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

F. As used in this section:

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

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

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

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

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

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

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

Tobacco products may be sold from a vending machine only if the machine is (i) posted with a 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

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

power of arrest pursuant to § 28.2-900;

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

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

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

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

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

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

~~11. Campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.~~

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

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

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

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

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

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

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

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 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;

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 Commissioner of Highways;

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 Virginia controlled by the Richmond Metropolitan Authority, pursuant to the requirements of subdivisions 1 through 4 of subsection B1.

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

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

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

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

CHAPTER 12.

ENFORCEMENT OF ALCOHOLIC BEVERAGE CONTROL LAWS.

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

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

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

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

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability 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.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) ~~special agents of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 4 (§ 4.1-100 et seq.) of Title 4.1, (xi)~~ for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, ~~(xii)~~(xi) officers of the police force established and maintained by the Norfolk Airport Authority, ~~(xiii)~~(xii) sworn officers of the police force established and maintained by the Virginia Port Authority, and ~~(xiv)~~(xiii) campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 and employed by any public institution of higher education 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 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 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.

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

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

4. 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

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.