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## SENATE BILL NO. 955

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources  
on January 29, 2015)

(Patron Prior to Substitute—Senator Dance)

*A BILL to amend and reenact §§ 3.2-801 and 54.1-3401 of the Code of Virginia and to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 41.1, consisting of sections numbered 3.2-4112 through 3.2-4120, relating to industrial hemp production and manufacturing.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-801 and 54.1-3401 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 41.1, consisting of sections numbered 3.2-4112 through 3.2-4120, as follows:**

**§ 3.2-801. Powers and duties of Commissioner.**

The Commissioner shall exercise or perform the powers and duties imposed upon him by this chapter. The Commissioner shall make surveys for noxious weeds and when the Commissioner determines that an infestation exists within the Commonwealth, he may request the Board to declare the weed to be noxious under this chapter and the Board shall proceed as specified in § 3.2-802.

The Commissioner in coordination with the Department of Game and Inland Fisheries shall develop a plan for the identification and control of noxious weeds in the surface waters and lakes of the Commonwealth.

The Commissioner may cooperate with any person or any agency of the federal government in carrying out the provisions of this chapter.

Expenses incurred on property owned or controlled by the federal government shall be reimbursed and refunded to the appropriation from which they were expended.

The Commissioner may, upon request, cooperate with federal, other state agencies, or political subdivisions in the enforcement of the narcotics laws to the extent of preventing the spread of and destroying marijuana or hemp, Cannabis species, or other plants that produce drugs that have been condemned for destruction under the narcotics laws, and the expenses incurred shall be reimbursed and shall be refunded to the appropriation from which they were expended. Such drug producing plants are hereby declared noxious and subject to all provisions of this chapter pertaining to eradication and spread subject to the above conditions.

**CHAPTER 41.1.  
INDUSTRIAL HEMP.**

**§ 3.2-4112. Definitions.**

*As used in this chapter:*

*"Grower" means any person licensed pursuant to § 3.2-4115 to grow industrial hemp as part of the industrial hemp research program.*

*"Hemp products" means all products made from industrial hemp, including cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and seed for cultivation.*

*"Industrial hemp" means all parts and varieties of the plant Cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a concentration of THC that is no greater than that allowed by federal law. Industrial hemp as defined and applied in this chapter is excluded from the definition of marijuana as found in § 54.1-3401.*

*"Industrial hemp research program" means the research program established pursuant to § 3.2-4120.*

*"Seed research" means research conducted to develop or re-create better varieties of industrial hemp, particularly for the purposes of seed production.*

*"Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives, of the genus Cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.*

**§ 3.2-4113. Production of industrial hemp lawful.**

*A. It is lawful for a person licensed pursuant to § 3.2-4115 to cultivate, produce, or otherwise grow industrial hemp in the Commonwealth for the purpose of research as part of the industrial hemp research program. No person licensed pursuant to § 3.2-4115 shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or 18.2-250.1 for (i) the possession or cultivation of industrial hemp plant material or seeds as part of the industrial hemp research program or (ii) the manufacture of industrial hemp products as part of the industrial hemp research program.*

*B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or*

60 regulation. If any part of this chapter conflicts with a provision of federal law relating to industrial  
61 hemp that has been adopted in Virginia under this chapter, the federal provision shall control to the  
62 extent of the conflict.

63 **§ 3.2-4114. Regulations.**

64 The Board may adopt regulations pursuant to this chapter as necessary to (i) license persons to  
65 grow industrial hemp or (ii) administer the industrial hemp research program.

66 **§ 3.2-4115. Issuance of licenses.**

67 A. The Commissioner shall establish a program of licensure to allow a person to grow industrial  
68 hemp in the Commonwealth in a controlled fashion solely and exclusively as part of the industrial hemp  
69 research program. This form of licensure shall only be allowed subject to a grant of necessary  
70 permissions, waivers, or other form of valid legal status by the U.S. Drug Enforcement Administration  
71 or other appropriate federal agency pursuant to applicable federal laws relating to industrial hemp.

72 B. Any person seeking to grow industrial hemp as part of the industrial hemp research program  
73 shall apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum,  
74 the application shall include:

75 1. The name and mailing address of the applicant;

76 2. The legal description and geographic data sufficient for locating the production fields to be used  
77 to grow industrial hemp. A license shall authorize industrial hemp propagation only on the land areas  
78 specified in the license;

79 3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person  
80 with a prior felony drug conviction within 10 years of applying for a license under this section shall not  
81 be eligible for the license;

82 4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a  
83 license is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown  
84 to conduct physical inspections of industrial hemp planted and grown by the applicant and to ensure  
85 compliance with the requirements of this chapter. No more than two physical inspections shall be  
86 conducted under this subdivision per year, unless a valid search warrant for an inspection has been  
87 issued by a court of competent jurisdiction. All testing for THC levels shall be performed as provided in  
88 subsection K;

89 5. Documentation of an agreement between a public institution of higher education and the applicant  
90 that states that the applicant, if licensed pursuant to this section, will be a participant in the industrial  
91 hemp research program managed by that public institution of higher education;

92 6. Any other information required by the Commissioner; and

93 7. The payment of a nonrefundable application fee, in an amount set by the Commissioner.

94 C. The Commissioner shall require a state and national fingerprint-based criminal history  
95 background check by the Department of State Police on any person applying for licensure. The  
96 Department of State Police may charge a fee, as established by the Department of State Police, to be  
97 paid by the applicant for the actual cost of processing the background check. A copy of the results of  
98 the background check shall be sent to the Commissioner.

99 D. All license applications shall be processed as follows:

100 1. Upon receipt of a license application, the Commissioner shall forward a copy of the application to  
101 the Department of State Police, which shall initiate its review thereof;

102 2. The Department of State Police shall, within 60 days, perform the required state and national  
103 criminal history background check of the applicant; approve the application, if it is determined that the  
104 requirements relating to prior criminal convictions have been met; and return all applications to the  
105 Commissioner together with its findings and a copy of the state and national criminal history  
106 background check; and

107 3. The Commissioner shall review all license applications returned from the Department of State  
108 Police. If the Commissioner determines that all requirements have been met and that a license should be  
109 granted to the applicant, taking into consideration any prior convictions of the applicant, the  
110 Commissioner shall approve the application for issuance of a license.

111 E. The Commissioner may approve licenses for only those selected growers whose demonstration  
112 plots will, in the discretion of the Commissioner, advance the goals of the industrial hemp research  
113 program to the furthest extent possible based on location, soil type, growing conditions, varieties of  
114 industrial hemp and their suitability for particular hemp products, and other relevant factors. The  
115 location and acreage of each demonstration plot to be grown by a license holder, as well as the total  
116 number of plots to be grown by a license holder, shall be determined at the discretion of the  
117 Commissioner.

118 F. An industrial hemp research program grower license shall not be subject to a minimum acreage.

119 G. Each license shall be valid for a period of one year from the date of issuance and may be  
120 renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.

121 H. The Commissioner shall establish the fee amounts required for license applications and license

renewals allowed under this section. All application and license renewal fees collected by the Commissioner shall be deposited in the State Treasury.

I. A copy or appropriate electronic record of each license issued by the Commissioner under this section shall be forwarded immediately to the chief law-enforcement officer of each county or city where the industrial hemp is licensed to be planted, grown, and harvested.

J. All records, data, and information filed in support of a license application shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

K. The Commissioner shall be responsible for monitoring the industrial hemp grown by any license holder and shall provide for random testing of the industrial hemp for compliance with THC levels and for other appropriate purposes established pursuant to § 3.2-4114 at the cost of the license holder.

**§ 3.2-4116. Industrial hemp grower license conditions.**

A. A person shall obtain an industrial hemp grower license pursuant to § 3.2-4115 prior to planting or growing any industrial hemp in the Commonwealth.

B. A person granted an industrial hemp grower license pursuant to § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter and with all other state laws regulating the planting and cultivation of industrial hemp;

2. Retain all industrial hemp production records for at least three years;

3. Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality; and

4. Maintain a current written agreement with a public institution of higher education that states that the grower is a participant in the industrial hemp research program managed by that public institution of higher education.

**§ 3.2-4117. Additional industrial hemp licenses.**

A. The Board may adopt regulations as necessary to license persons to grow industrial hemp in the Commonwealth for any purpose.

B. The Commissioner may establish a program of licensure, including the establishment of any fees, to allow a person to grow industrial hemp in the Commonwealth for any purpose.

C. Subsections A and B shall only be allowed subject to the authorization of industrial hemp growth and production in the United States under applicable federal laws relating to industrial hemp.

**§ 3.2-4118. Forfeiture of industrial hemp grower license.**

A. The Commissioner shall deny the application, or suspend or revoke the license, of any industrial hemp grower if the grower violates any provision of this chapter. The Commissioner shall provide reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any industrial hemp grower in connection with the denial, suspension, or revocation of the grower's license.

B. If a license is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The grower may appeal a final order to the circuit court in accordance with the Administrative Process Act.

C. The Commissioner may revoke any license of any person who has pled guilty to, or been convicted of, a felony.

**§ 3.2-4119. Eligibility to receive tobacco settlement funds.**

Industrial hemp growers licensed under this chapter may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

**§ 3.2-4120. Industrial hemp research program.**

A. To the extent that adequate funds are available for the program, the Commissioner shall undertake research of industrial hemp production through the establishment and oversight of an industrial hemp research program to be directly managed by public institutions of higher education. This research program shall consist primarily of demonstration plots planted and cultivated in Virginia by selected growers. The growers shall be licensed pursuant to subsection A of § 3.2-4115 prior to planting any industrial hemp.

B. As part of the industrial hemp research program directly managed by public institutions of higher education, the Commissioner may:

1. Oversee and analyze the growth of industrial hemp by licensed growers, for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of various varieties of industrial hemp that may be suitable for various commercial hemp products;

2. Conduct seed research on various types of industrial hemp that are best suited to be grown in Virginia, including seed availability, creation of Virginia hybrid types, and in-the-ground variety trials and seed production, and may establish a program to recognize certain industrial hemp seeds as being Virginia varieties of hemp seed;

183 3. Study the economic feasibility of developing an industrial hemp market in various types of  
184 industrial hemp that can be grown in the Commonwealth;

185 4. Report on the estimated value-added benefits, including environmental benefits, to Virginia  
186 businesses of an industrial hemp market of Virginia-grown industrial hemp varieties;

187 5. Study the agronomy research being conducted worldwide relating to industrial hemp varieties,  
188 production, and use;

189 6. Research and promote on the world market industrial hemp and hemp seed that can be grown on  
190 farms in the Commonwealth;

191 7. Promote research into the development of industrial hemp and commercial markets for Virginia  
192 industrial hemp and hemp products;

193 8. Study the feasibility of attracting federal or private funding for the Virginia industrial hemp  
194 research program; and

195 9. Study the use of industrial hemp in new energy technologies, including electricity generation,  
196 biofuels, or other forms of energy resources; the growth of industrial hemp on reclaimed mine sites; the  
197 use of hemp seed oil in the production of fuels; and the production costs, environmental issues, and  
198 costs and benefits involved with the use of industrial hemp for energy.

199 C. The research activities outlined in subsection B shall not:

200 1. Subject the industrial hemp research program to any criminal liability under the controlled  
201 substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that  
202 shall be strictly construed and that shall not apply to any activities of the industrial hemp research  
203 program that are not authorized; or

204 2. Alter, amend, or repeal by implication any provision of this Code relating to controlled  
205 substances.

206 D. The Commissioner shall pursue any permits or waivers from the U.S. Drug Enforcement  
207 Administration or appropriate federal agency that are necessary for the advancement of the industrial  
208 hemp research program.

209 E. The Commissioner shall notify the Superintendent of State Police and all local law-enforcement  
210 agencies of the duration, size, and location of all industrial hemp demonstration plots.

211 F. The Commissioner is permitted to cooperatively seek funds from public and private sources to  
212 implement the industrial hemp research program.

213 G. By November 1, 2015, and annually thereafter, the Commissioner shall report on the status and  
214 progress of the industrial hemp research program to the Governor and to the General Assembly.

215 **§ 54.1-3401. Definitions.**

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

217 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,  
218 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his  
219 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the  
220 presence of the practitioner.

221 "Advertisement" means all representations disseminated in any manner or by any means, other than  
222 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the  
223 purchase of drugs or devices.

224 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,  
225 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or  
226 employee of the carrier or warehouseman.

227 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related  
228 to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

229 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

230 "Automated drug dispensing system" means a mechanical or electronic system that performs  
231 operations or activities, other than compounding or administration, relating to pharmacy services,  
232 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of  
233 all transaction information, to provide security and accountability for such drugs.

234 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood  
235 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or  
236 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic  
237 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human  
238 beings.

239 "Biosimilar" means a biological product that is highly similar to a specific reference biological  
240 product, notwithstanding minor differences in clinically inactive compounds, such that there are no  
241 clinically meaningful differences between the reference biological product and the biological product that  
242 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency  
243 of the product.

244 "Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or A 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or

306 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect  
307 the structure or any function of the body of man or animals; (iv) articles or substances intended for use  
308 as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug"  
309 does not include devices or their components, parts, or accessories.

310 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether  
311 by brand or therapeutically equivalent drug product name.

312 "Electronic transmission prescription" means any prescription, other than an oral or written  
313 prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly  
314 to a pharmacy without interception or intervention from a third party from a practitioner authorized to  
315 prescribe or from one pharmacy to another pharmacy.

316 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an  
317 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy  
318 form.

319 "FDA" means the U.S. Food and Drug Administration.

320 "Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any  
321 such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

322 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by  
323 regulation designates as being the principal compound commonly used or produced primarily for use,  
324 and which is an immediate chemical intermediary used or likely to be used in the manufacture of a  
325 controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

326 "Interchangeable" means a biosimilar that meets safety standards for determining interchangeability  
327 pursuant to 42 U.S.C. § 262(k)(4).

328 "Label" means a display of written, printed, or graphic matter upon the immediate container of any  
329 article. A requirement made by or under authority of this chapter that any word, statement, or other  
330 information appear on the label shall not be considered to be complied with unless such word,  
331 statement, or other information also appears on the outside container or wrapper, if any, of the retail  
332 package of such article or is easily legible through the outside container or wrapper.

333 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its  
334 containers or wrappers, or accompanying such article.

335 "Manufacture" means the production, preparation, propagation, conversion, or processing of any item  
336 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or  
337 independently by means of chemical synthesis, or by a combination of extraction and chemical  
338 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its  
339 container. This term does not include compounding.

340 "Manufacturer" means every person who manufactures.

341 "Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or  
342 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its  
343 seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids  
344 unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana  
345 include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the  
346 seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the  
347 genus *Cannabis*. *Marijuana shall not include industrial hemp as defined in § 3.2-4112 that is possessed,*  
348 *cultivated, or manufactured by a grower licensed pursuant to § 3.2-4115.*

349 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to  
350 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and  
351 needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with  
352 no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for  
353 peritoneal dialysis, and sterile water or saline for irrigation.

354 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction  
355 from substances of vegetable origin, or independently by means of chemical synthesis, or by a  
356 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,  
357 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof  
358 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not  
359 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and  
360 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,  
361 derivative, or preparation thereof which is chemically equivalent or identical with any of these  
362 substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain  
363 cocaine or ecgonine.

364 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a  
365 new animal drug, the composition of which is such that such drug is not generally recognized, among  
366 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,  
367 as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,

except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning - may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei

429 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or  
430 radionuclide generator that is intended to be used in the preparation of any such substance, but does not  
431 include drugs such as carbon-containing compounds or potassium-containing salts that include trace  
432 quantities of naturally occurring radionuclides. The term also includes any biological product that is  
433 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

434 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.  
435 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food  
436 and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to  
437 42 U.S.C. § 262(k).

438 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any  
439 person, whether as an individual, proprietor, agent, servant, or employee.

440 "Therapeutically equivalent drug products" means drug products that contain the same active  
441 ingredients and are identical in strength or concentration, dosage form, and route of administration and  
442 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration  
443 pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent  
444 edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as  
445 the "Orange Book."

446 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

447 "Warehouser" means any person, other than a wholesale distributor, engaged in the business of  
448 selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user  
449 or consumer. No person shall be subject to any state or local tax by reason of this definition.

450 "Wholesale distribution" means distribution of prescription drugs to persons other than consumers or  
451 patients, subject to the exceptions set forth in § 54.1-3401.1.

452 "Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs  
453 including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors;  
454 jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug  
455 warehouses conducting wholesale distributions, and wholesale drug warehouses; independent wholesale  
456 drug traders; and retail pharmacies conducting wholesale distributions. No person shall be subject to any  
457 state or local tax as a wholesale merchant by reason of this definition.

458 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter  
459 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses  
460 or lenses for the eyes.

461 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be  
462 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.