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HOUSE BILL NO. 1750

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4113, 3.2-4116, 3.2-5145.5, 4.1-100, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-614, 4.1-620, 4.1-1101, 4.1-1105.1, 4.1-1121, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-2820, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.012, 18.2-308.016, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, as it shall become effective, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3401, 54.1-3408.3, 54.1-3442.8, 54.1-3446, 58.1-3, 59.1-148.3, 59.1-200, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, and 4.1-1113 through 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Title 4.1 a chapter numbered 14, consisting of sections numbered 4.1-1400 through 4.1-1407, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Article 3 of Chapter 9 of Title 22.1 a section numbered 22.1-141.3; and to repeal Article 30 (§§ 2.2-2499.5 through 2.2-2499.8) of Chapter 24 of Title 2.2, Article 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2, §§ 4.1-1101.1 and 4.1-1105.1, Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1, and §§ 18.2-248.1 and 18.2-251.1 of the Code of Virginia and the sixteenth enactment of Chapter 550 and the sixteenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, relating to cannabis control; retail market; transitional sales; penalties.*

Patron—Webert

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4113, 3.2-4116, 3.2-5145.5, 4.1-100, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-614, 4.1-620, 4.1-1101, 4.1-1105.1, 4.1-1121, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-2820, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.012, 18.2-308.016, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, as it shall become effective, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3401, 54.1-3408.3, 54.1-3442.8, 54.1-3446, 58.1-3, 59.1-148.3, 59.1-200, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, and 4.1-1113 through 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Title 4.1 a chapter numbered 14,

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59 consisting of sections numbered 4.1-1400 through 4.1-1407, by adding in Article 2 of Chapter 1 of
60 Title 6.2 a section numbered 6.2-108, and by adding in Article 3 of Chapter 9 of Title 22.1 a
61 section numbered 22.1-141.3 as follows:

62 § 2.2-221. Position established; agencies for which responsible; additional powers and duties.

63 A. The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The
64 Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic
65 Beverage Control Authority, *Virginia Cannabis Control Authority*, Department of Corrections,
66 Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic
67 Science, Virginia Parole Board, Department of Emergency Management, Department of State Police,
68 Department of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by
69 executive order, assign any other state executive agency to the Secretary, or reassign any agency listed
70 above to another Secretary.

71 B. The Secretary shall by reason of professional background have knowledge of law enforcement,
72 public safety, or emergency management and preparedness issues, in addition to familiarity with the
73 structure and operations of the federal government and of the Commonwealth.

74 Unless the Governor expressly reserves such power to himself, the Secretary shall:

75 1. Work with and through others, including federal, state, and local officials as well as the private
76 sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.

77 2. Serve as the point of contact with the federal Department of Homeland Security.

78 3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism
79 management plans for the state and its agencies in coordination with the Virginia Department of
80 Emergency Management and other applicable state agencies.

81 4. Work with federal officials to obtain additional federal resources and coordinate policy
82 development and information exchange.

83 5. Work with and through appropriate members of the Governor's Cabinet to coordinate working
84 relationships between state agencies and take all actions necessary to ensure that available federal and
85 state resources are directed toward safeguarding Virginia and its citizens.

86 6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-related
87 preparedness federal grant requests from state agencies and localities are used to enhance
88 interoperability. The Secretary shall ensure that the annual review and update of the statewide
89 interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth
90 Interoperability Coordinator shall establish an advisory group consisting of representatives of state and
91 local government and constitutional offices, broadly distributed across the Commonwealth, who are
92 actively engaged in activities and functions related to communications interoperability.

93 7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated
94 security and preparedness strategy, including the National Capital Region Senior Policy Group organized
95 as part of the federal Urban Areas Security Initiative.

96 8. Serve as a direct liaison between the Governor and local governments and first responders on
97 issues of emergency prevention, preparedness, response, and recovery.

98 9. Educate the public on homeland security and overall preparedness issues in coordination with
99 applicable state agencies.

100 10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

101 11. Encourage homeland security volunteer efforts throughout the state.

102 12. Coordinate the development of an allocation formula for State Homeland Security Grant Program
103 funds to localities and state agencies in compliance with federal grant guidance and constraints. The
104 formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and
105 need.

106 13. Work with the appropriate state agencies to ensure that regional working groups are meeting
107 regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access
108 to response teams in times of emergency and facilitate testing and training exercises for emergencies and
109 mass casualty preparedness.

110 14. Provide oversight and review of the Virginia Department of Emergency Management's annual
111 statewide assessment of local and regional capabilities, including equipment, training, personnel,
112 response times, and other factors.

113 15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts,
114 investment bankers, superintendents, managers, and such other employees and agents as may be
115 necessary, and fix their compensation to be payable from funds made available for that purpose.

116 16. Receive and accept from any federal or private agency, foundation, corporation, association, or
117 person grants, donations of money, real property, or personal property for the benefit of the
118 Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county,
119 or other political subdivision thereof, or any other source, aid or contributions of money, property, or
120 other things of value, to be held, used, and applied for the purposes for which such grants and

contributions may be made.

17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out these requirements subject to the conditions upon which the aid, grants, or contributions are made.

18. Make grants to local governments, state and federal agencies, and private entities with any funds of the Secretary available for such purpose.

19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*.

20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

§ 2.2-507. Legal service in civil matters.

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

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

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

2. Agents inspecting or investigators appointed by the State Corporation Commission;

3. Agents, investigators, or auditors employed by the Department of Taxation;

4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Local and Regional Jails, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;

5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;

6. Persons employed by the Commissioner of Motor Vehicles;

7. Persons appointed by the Commissioner of Marine Resources;

8. Police officers appointed by the Superintendent of State Police;

9. Conservation police officers appointed by the Department of Wildlife Resources;

10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;

11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;

13. Conservation officers of the Department of Conservation and Recreation; or

14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

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

190 D. Nothing herein shall limit the powers granted in § 16.1-88.03.

191 **§ 2.2-511. Criminal cases.**

192 A. Unless specifically requested by the Governor to do so, the Attorney General shall have no
193 authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except
194 in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.) or the
195 *Cannabis Control Act* (§ 4.1-600 et seq.), (ii) violation of laws relating to elections and the electoral
196 process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation,
197 (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state
198 property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual
199 material involving children, (vii) the practice of law without being duly authorized or licensed or the
200 illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the
201 local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et
202 seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air
203 Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.),
204 and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney
205 for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10
206 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this
207 subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations
208 by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13
209 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the
210 local attorney for the Commonwealth, or he may institute proceedings by information, presentment or
211 indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the
212 Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the
213 concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of
214 §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth,
215 assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are
216 committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local
217 attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et
218 seq.) of Chapter 6 of Title 18.2.

219 In all other criminal cases in the circuit courts, except where the law provides otherwise, the
220 authority of the Attorney General to appear or participate in the proceedings shall not attach unless and
221 until a notice of appeal has been filed with the clerk of the circuit court noting an appeal to the Court of
222 Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court
223 in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and
224 represent the Commonwealth, unless, and with the consent of the Attorney General, the attorney for the
225 Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent
226 the Commonwealth in any such appeal.

227 B. The Attorney General shall, upon request of a person who was the victim of a crime and subject
228 to such reasonable procedures as the Attorney General may require, ensure that such person is given
229 notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus
230 proceeding involving the cases in which such person was a victim. For the purposes of this section, a
231 victim is an individual who has suffered physical, psychological or economic harm as a direct result of
232 the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim;
233 or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall
234 confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas
235 corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages
236 against the Commonwealth or any of its political subdivisions, the Attorney General or any of his
237 employees or agents, any other officer, employee or agent of the Commonwealth or any of its political
238 subdivisions, or any officer of the court.

239 **§ 2.2-1119. Cases in which purchasing through Division not mandatory.**

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

242 1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor
243 and materials;

2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;

3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;

4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, including office stationery and supplies, office equipment, and janitorial equipment and supplies; however, coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

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

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

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

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

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

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

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

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

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

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

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

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

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

2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be

305 provided incorporating any changes in such Guidelines or Standards within six months of the publication
306 of such Guidelines or Standards or any official amendment thereto.

307 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures
308 for the resolution of such complaints and shall be published and disseminated to all covered state
309 employees. The appeals process shall be compliant with federal rules and regulations governing
310 nonfederal, self-insured governmental health plans. The appeals process shall include a separate
311 expedited emergency appeals procedure that shall provide resolution within time frames established by
312 federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall
313 contract with one or more independent review organizations to review such decisions. Independent
314 review organizations are entities that conduct independent external review of adverse benefit
315 determinations. The Department shall adopt regulations to assure that the independent review
316 organization conducting the reviews has adequate standards, credentials and experience for such review.
317 The independent review organization shall examine the final denial of claims to determine whether the
318 decision is objective, clinically valid, and compatible with established principles of health care. The
319 decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to
320 the material issues in the case and the basis for those findings, and (iii) be final and binding if
321 consistent with law and policy.

322 Prior to assigning an appeal to an independent review organization, the Department shall verify that
323 the independent review organization conducting the review of a denial of claims has no relationship or
324 association with ~~(i)~~ (a) the covered person or the covered person's authorized representative; ~~(ii)~~ (b) the
325 treating health care provider, or any of its employees or affiliates; ~~(iii)~~ (c) the medical care facility at
326 which the covered service would be provided, or any of its employees or affiliates; or ~~(iv)~~ (d) the
327 development or manufacture of the drug, device, procedure or other therapy that is the subject of the
328 final denial of a claim. The independent review organization shall not be a subsidiary of, nor owned or
329 controlled by, a health plan, a trade association of health plans, or a professional association of health
330 care providers. There shall be no liability on the part of and no cause of action shall arise against any
331 officer or employee of an independent review organization for any actions taken or not taken or
332 statements made by such officer or employee in good faith in the performance of his powers and duties.

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

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

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

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

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

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

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

denial of coverage due to preexisting conditions.

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

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

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

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

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

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

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

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

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

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

The reimbursement for patient costs incurred during participation in clinical trials for treatment

428 studies on cancer shall be determined in the same manner as reimbursement is determined for other
429 medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles,
430 copayments and coinsurance factors that are no less favorable than for physical illness generally.

431 For purposes of this subdivision:

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

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

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

441 "NCI" means the National Cancer Institute.

442 "NIH" means the National Institutes of Health.

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

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

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

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

- 454 a. The National Cancer Institute;
455 b. An NCI cooperative group or an NCI center;
456 c. The FDA in the form of an investigational new drug application;
457 d. The federal Department of Veterans Affairs; or
458 e. An institutional review board of an institution in the Commonwealth that has a multiple project
459 assurance contract approved by the Office of Protection from Research Risks of the NCI.

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

462 Coverage under this subdivision shall apply only if:

- 463 (1) There is no clearly superior, noninvestigational treatment alternative;
464 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will
465 be at least as effective as the noninvestigational alternative; and
466 (3) The patient and the physician or health care provider who provides services to the patient under
467 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to
468 procedures established by the plan.

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

475 17. Include coverage for biologically based mental illness.

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

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

487 Nothing shall preclude the undertaking of usual and customary procedures to determine the
488 appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this
489 option, provided that all such appropriateness and medical necessity determinations are made in the same

manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

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

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

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

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

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

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

D. For the purposes of this section:

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

"Standard reference compendia" means:

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

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301

551 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and
552 domestic relations, and district courts of the Commonwealth; interns and residents employed by the
553 School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of
554 the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and
555 employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05 *and the*
556 *Virginia Cannabis Control Authority as provided in § 4.1-623.*

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

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

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

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

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

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

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

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

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

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

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

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

604 The Ombudsman shall:

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

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

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

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

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

additional information as he deems appropriate.

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

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

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

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

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

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

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

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

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

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

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

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

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and

674 notaries public;

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

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

678 9. Commissioned officers and enlisted personnel of the National Guard;

679 10. Student employees at institutions of higher education and patient or inmate help in other state
680 institutions;

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

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

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

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

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

692 16. Employees of the Virginia Lottery;

693 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
694 and service industries who have a human resources classification of industry worker;

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

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

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

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

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

709 23. Employees of the Virginia College Savings Plan;

710 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
711 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to
712 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
713 (§ 2.2-3000 et seq.);

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

717 26. Employees of the Virginia Indigent Defense Commission;

718 27. Any chief of a campus police department that has been designated by the governing body of a
719 public institution of higher education as exempt, pursuant to § 23.1-809;

720 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage
721 Control Authority; ~~and~~

722 29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control*
723 *Authority; and*

724 30. Officers and employees of the Fort Monroe Authority.

725 **§ 2.2-3114. Disclosure by state officers and employees.**

726 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant
727 Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of
728 any circuit court, judges and substitute judges of any district court, members of the State Corporation
729 Commission, members of the Virginia Workers' Compensation Commission, members of the
730 Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement
731 System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority,
732 *members of the Board of Directors of the Virginia Cannabis Control Authority*, members of the Board
733 of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons
734 occupying such offices or positions of trust or employment in state government, including members of
735 the governing bodies of authorities, as may be designated by the Governor, or officers or employees of

the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

797 1. Information relating to investigations of applicants for licenses and permits, and of all licensees
798 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, *the Virginia*
799 *Cannabis Control Authority*, the Virginia Lottery pursuant to Chapter 40 (§ 58.1-4000 et seq.) and
800 Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, the Virginia Racing Commission, the Department of
801 Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1
802 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the
803 Department of Criminal Justice Services.

804 2. Records of active investigations being conducted by the Department of Health Professions or by
805 any health regulatory board in the Commonwealth pursuant to § 54.1-108.

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

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

815 5. Investigative notes and other correspondence and information furnished in confidence with respect
816 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under
817 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance
818 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,
819 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
820 However, nothing in this subdivision shall prevent the distribution of information taken from inactive
821 reports in a form that does not reveal the identity of the parties involved or other persons supplying
822 information.

823 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii)
824 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
825 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
826 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
827 such information has not been publicly released, published or copyrighted. All studies and investigations
828 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of
829 the study or investigation.

830 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
831 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of
832 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority
833 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and
834 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General
835 with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation
836 initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a
837 state agency or by any public institution of higher education; (vi) the committee or the auditor with
838 respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by
839 the local governing body of any county, city, or town or a school board, who by charter, ordinance, or
840 statute have responsibility for conducting an investigation of any officer, department, or program of such
841 body. Information contained in completed investigations shall be disclosed in a form that does not reveal
842 the identity of the complainants or persons supplying information to investigators. Unless disclosure is
843 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of
844 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to
845 resolve the complaint. If an investigation does not lead to corrective action, the identity of the person
846 who is the subject of the complaint may be released only with the consent of the subject person. Local
847 governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

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

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

855 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of
856 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
857 unauthorized alteration, or improper administration of tests by local school board employees responsible
858 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure

of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

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

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

920 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
921 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
922 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
923 litigation" means litigation that has been specifically threatened or on which the public body or its legal
924 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in
925 this subdivision shall be construed to permit the closure of a meeting merely because an attorney
926 representing the public body is in attendance or is consulted on a matter.

927 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
928 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
929 construed to permit the closure of a meeting merely because an attorney representing the public body is
930 in attendance or is consulted on a matter.

931 9. Discussion or consideration by governing boards of public institutions of higher education of
932 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
933 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
934 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
935 accepted by a public institution of higher education in the Commonwealth shall be subject to public
936 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
937 (i) "foreign government" means any government other than the United States government or the
938 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
939 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
940 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
941 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
942 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
943 citizen or national of the United States or a trust territory or protectorate thereof.

944 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
945 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,
946 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from
947 private sources.

948 11. Discussion or consideration of honorary degrees or special awards.

949 12. Discussion or consideration of tests, examinations, or other information used, administered, or
950 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

951 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
952 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
953 filed by the member, provided the member may request in writing that the committee meeting not be
954 conducted in a closed meeting.

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

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

963 16. Discussion or consideration of medical and mental health records subject to the exclusion in
964 subdivision 1 of § 2.2-3705.5.

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

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

976 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
977 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
978 or emergency service officials concerning actions taken to respond to such matters or a related threat to
979 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
980 where discussion in an open meeting would jeopardize the safety of any person or the security of any
981 facility, building, structure, information technology system, or software program; or discussion of reports

or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

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

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1043 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
1044 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §
1045 56-484.12, related to the provision of wireless E-911 service.

1046 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1047 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1048 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
1049 a decision or meetings of health regulatory boards or conference committees of such boards to consider
1050 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
1051 requested by either of the parties.

1052 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
1053 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
1054 defined in § 33.2-1800, or any independent review panel appointed to review information and advise
1055 the responsible public entity concerning such records.

1056 29. Discussion of the award of a public contract involving the expenditure of public funds, including
1057 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1058 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
1059 the public body.

1060 30. Discussion or consideration of grant or loan application information subject to the exclusion in
1061 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1062 31. Discussion or consideration by the Commitment Review Committee of information subject to the
1063 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
1064 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1065 32. Discussion or consideration of confidential proprietary information and trade secrets developed
1066 and held by a local public body providing certain telecommunication services or cable television services
1067 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
1068 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
1069 seq.).

1070 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
1071 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
1072 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1073 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
1074 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

1075 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
1076 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
1077 files.

1078 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
1079 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
1080 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
1081 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
1082 recover scholarship awards.

1083 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion
1084 in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia
1085 Port Authority.

1086 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1087 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
1088 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
1089 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment
1090 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
1091 subdivision 24 of § 2.2-3705.7.

1092 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
1093 § 2.2-3705.6 related to economic development.

1094 40. Discussion or consideration by the Board of Education of information relating to the denial,
1095 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1096 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created
1097 by executive order for the purpose of studying and making recommendations regarding preventing
1098 closure or realignment of federal military and national security installations and facilities located in
1099 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
1100 appointed by a local governing body, during which there is discussion of information subject to the
1101 exclusion in subdivision 8 of § 2.2-3705.2.

1102 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1103 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1104 information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority or the Board of Directors of the Virginia Cannabis Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant

1166 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
1167 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
1168 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
1169 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
1170 of such bonds.

1171 **§ 2.2-3802. Systems to which chapter inapplicable.**

1172 The provisions of this chapter shall not apply to personal information systems:

1173 1. Maintained by any court of the Commonwealth;

1174 2. Which may exist in publications of general circulation;

1175 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or
1176 in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
1177 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
1178 be posted on the Internet pursuant to § 9.1-913;

1179 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
1180 16.1-225;

1181 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth
1182 to engage in the practice of any profession, in which case the names and addresses of persons applying
1183 for or possessing the license may be disseminated upon written request to a person engaged in the
1184 profession or business of offering professional educational materials or courses for the sole purpose of
1185 providing the licensees or applicants for licenses with informational materials relating solely to available
1186 professional educational materials or courses, provided the disseminating agency is reasonably assured
1187 that the use of the information will be so limited;

1188 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
1189 Commission, the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the
1190 Virginia Alcoholic Beverage Control Authority, and the Virginia Cannabis Control Authority;

1191 7. Maintained by any of the following and that deal with investigations and intelligence gathering
1192 related to criminal activity:

1193 a. The Department of State Police;

1194 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

1195 c. Police departments of cities, counties, and towns;

1196 d. Sheriff's departments of counties and cities;

1197 e. Campus police departments of public institutions of higher education as established by Article 3
1198 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

1199 f. The Division of Capitol Police.

1200 8. Maintained by local departments of social services regarding alleged cases of child abuse or
1201 neglect while such cases are also subject to an ongoing criminal prosecution;

1202 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1203 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion
1204 of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
1205 information on those subjects may be disseminated upon written request to a person engaged in the
1206 business of providing travel services or distributing travel information, provided the Virginia Tourism
1207 Authority is reasonably assured that the use of the information will be so limited;

1208 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General
1209 Services and the Department of Forensic Science, which deal with scientific investigations relating to
1210 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1211 12. Maintained by the Department of Corrections or the Office of the State Inspector General that
1212 deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
1213 (§ 2.2-307 et seq.);

1214 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state
1215 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste
1216 and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town
1217 or a school board that deals with local investigations required by § 15.2-2511.2;

1218 14. Maintained by the Department of Social Services or any local department of social services
1219 relating to public assistance fraud investigations;

1220 15. Maintained by the Department of Social Services related to child welfare or public assistance
1221 programs when requests for personal information are made to the Department of Social Services.
1222 Requests for information from these systems shall be made to the appropriate local department of social
1223 services that is the custodian of that record. Notwithstanding the language in this section, an individual
1224 shall not be prohibited from obtaining information from the central registry in accordance with the
1225 provisions of § 63.2-1515; and

1226 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services,
1227 adult protective services, or auxiliary grants when requests for personal information are made to the

Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

§ 2.2-4024. Hearing officers.

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

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

1. Active membership in good standing in the Virginia State Bar;
2. Active practice of law for at least five years; and
3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that agency.

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

C. A hearing officer appointed in accordance with this section shall be subject to disqualification as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion as follows:

1. If the agency's written regulations or procedures require the hearing officer to render a recommendation or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion on or before the expiration of the specified period; and

2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

If the hearing officer does not render a decision within the time required by this subsection, then the agency or the named party to the case decision may provide written notice to the hearing officer and the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with this chapter.

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

G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing

1289 officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife
1290 Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia
1291 Resources Authority pursuant to their basic laws.

1292 **§ 3.2-1010. Enforcement of chapter; summons.**

1293 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain
1294 members of the Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control*
1295 *Authority*, may enforce the provisions of this chapter and the regulations adopted hereunder as well as
1296 those who are so designated by the Commissioner. Those designated by the Commissioner may issue a
1297 summons to any person who violates any provision of this chapter to appear at a time and place to be
1298 specified in such summons.

1299 **§ 3.2-3906. Board to adopt regulations.**

1300 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.),
1301 including:

- 1302 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
- 1303 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1304 3. Requiring reporting and record keeping related to licensing and registration;
- 1305 4. Establishing training, testing and standards for certification of commercial applicators, registered
1306 technicians, and private applicators;
- 1307 5. Revoking, suspending or denying licenses (business), registration (products), and certification or
1308 certificate (applicators or technicians);
- 1309 6. Requiring licensees and certificate holders to inform the public when using pesticides in and
1310 around structures;
- 1311 7. Establishing a fee structure for licensure, registration and certification to defray the costs of
1312 implementing this chapter;
- 1313 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such
1314 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial,
1315 institutional, structural or health-related pest control;
- 1316 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or
1317 residuals that: (i) undesirably persists in the environment or increases due to biological amplification or
1318 unreasonable adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man,
1319 animal, bird or plant may be contrary to the public interest; ~~and~~
- 1320 10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in*
1321 *compliance with Chapter 41.1 (§ 3.2-4112 et seq.) or the Cannabis Control Act (§ 4.1-600 et seq.); and*
1322 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1323 **§ 3.2-4113. Production of industrial hemp lawful.**

1324 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a dealer or his
1325 agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any
1326 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under
1327 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or
1328 18.2-250 for the possession or growing of industrial hemp or any Cannabis sativa with a
1329 tetrahydrocannabinol concentration that does not exceed the total delta-9 tetrahydrocannabinol
1330 concentration percentage established in federal regulations applicable to negligent violations located at 7
1331 C.F.R. 990.6(b)(3). No dealer or his agent or processor or his agent shall be prosecuted under Chapter
1332 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or
1333 issued a summons or judgment for the possession, dealing, or processing of industrial hemp. In any
1334 complaint, information, or indictment, and in any action or proceeding brought for the enforcement of
1335 any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.) of Chapter 7
1336 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any
1337 exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the
1338 burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

1339 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or
1340 regulation.

1341 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,
1342 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the involuntary growth of industrial hemp through the
1343 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or
1344 process site.

1345 **§ 3.2-4116. Registration conditions.**

1346 A. A person who is not a federally licensed hemp producer shall obtain a registration pursuant to
1347 subsection A of § 3.2-4115 prior to growing, dealing in, or processing any industrial hemp in the
1348 Commonwealth.

1349 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

- 1350 1. Maintain records that reflect compliance with this chapter *and all other state and federal laws*

regulating the growing, dealing in, or processing of industrial hemp;

2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

3. Allow his production field, dealership, or process site 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 in which the production field or dealership or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

§ 3.2-5145.5. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. The Board shall adopt regulations identifying contaminants of an industrial hemp extract or a food containing an industrial hemp extract and establishing tolerances for such identified contaminants.

C. The Board shall adopt regulations establishing labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract. Such regulations shall require that any industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol be equipped with a label that states (i) that the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (ii) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (iii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iv) the total percentage and milligrams of tetrahydrocannabinol included in the industrial hemp extract or food containing an industrial hemp extract and the number of milligrams of tetrahydrocannabinol that are contained in each serving.

D. The Board shall adopt regulations establishing batch testing requirements for industrial hemp extracts. The Board shall require that batch testing of industrial hemp extracts be conducted by an independent testing laboratory that meets criteria established by the Board.

E. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

Article 6.

Edible Marijuana Products and Edible Hemp Products.

§ 3.2-5145.6. Definitions.

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

"Edible hemp product" means the same as that term is defined in § 4.1-600.

"Edible marijuana product" means the same as that term is defined in § 4.1-600.

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean "drug" as defined in § 54.1-3401.

§ 3.2-5145.7. Edible marijuana products and edible hemp products; approved food; adulterated food.

A. An edible marijuana product or edible hemp product is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. An edible marijuana product or edible hemp product that does not comply with the provisions of § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

§ 3.2-5145.8. Manufacturer of edible marijuana products or edible hemp products.

A. A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:

1412 1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and
1413 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible
1414 marijuana products in the location in which such manufacturing occurs.

1415 B. A manufacturer of an edible hemp product shall be an approved source if the manufacturer
1416 operates:

1417 1. Under inspection by the responsible food regulatory agency in the location in which such
1418 manufacturing occurs; and

1419 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible
1420 hemp products in the location in which such manufacturing occurs.

1421 **§ 3.2-5145.9. Regulations.**

1422 A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

1423 B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act
1424 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the
1425 adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this
1426 section, the Board shall publish a notice of opportunity to comment in the Virginia Register of
1427 Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to
1428 comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed
1429 regulation; and (iii) the name, address, and telephone number of the agency contact person responsible
1430 for receiving public comments. Such notice shall be made at least 60 days in advance of the last date
1431 prescribed in such notice for submittals of public comment. The legislative review provisions of
1432 subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for
1433 regulations adopted pursuant to this section. The Board shall consider and keep on file all public
1434 comments received for any regulation adopted pursuant to this section.

1435 **§ 4.1-100. Definitions.**

1436 As used in this subtitle unless the context requires a different meaning:

1437 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
1438 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic
1439 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
1440 formulas approved by the government of the United States.

1441 "Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

1442 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
1443 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
1444 by inhalation.

1445 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
1446 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,
1447 and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer
1448 and capable of being consumed by a human being. Any liquid or solid containing more than one of the
1449 four varieties shall be considered as belonging to that variety which has the higher percentage of
1450 alcohol, however obtained, according to the order in which they are set forth in this definition; except
1451 that beer may be manufactured to include flavoring materials and other nonbeverage ingredients
1452 containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished
1453 product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for
1454 products with an alcohol content of no more than six percent by volume; or, in the case of products
1455 with an alcohol content of more than six percent by volume, as long as no more than one and one-half
1456 percent of the volume of the finished product consists of alcohol derived from added flavors and other
1457 nonbeverage ingredients containing alcohol.

1458 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which
1459 works of art are sold or displayed.

1460 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this
1461 subtitle.

1462 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1463 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;
1464 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)
1465 offering at least one meal per day, which may but need not be breakfast, to each person to whom
1466 overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and
1467 breakfast establishment" includes any property offered to the public for short-term rental, as that term is
1468 defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is
1469 offered to each person to whom overnight lodging is provided.

1470 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
1471 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one
1472 percent or more of alcohol by volume.

1473 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

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

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or Board regulation.

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

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

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

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

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this subtitle, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

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

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

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

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

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

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

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for

1535 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1536 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
1537 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
1538 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
1539 manufactured by the institution shall be stored on the premises of such farm winery that shall be
1540 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in
1541 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
1542 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
1543 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a
1544 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the
1545 individual members of the cooperative as long as such land is located in the Commonwealth. For
1546 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or
1547 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
1548 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for
1549 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned
1550 agricultural" shall otherwise limit or affect local zoning authority.

1551 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
1552 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
1553 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
1554 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
1555 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
1556 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
1557 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
1558 considered a gift shop.

1559 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
1560 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
1561 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1562 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial
1563 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for
1564 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and
1565 educating the consuming public about local oysters and other seafood products.

1566 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
1567 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
1568 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
1569 furnished to persons.

1570 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1571 "Grocery store" means an establishment that sells food and other items intended for human
1572 consumption, including a variety of ingredients commonly used in the preparation of meals.

1573 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of
1574 the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
1575 showing motion pictures to the public.

1576 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
1577 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
1578 four or more bedrooms. It shall also mean the person who operates such hotel.

1579 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
1580 pursuant to this subtitle.

1581 "Internet wine and beer retailer" means a person who owns or operates an establishment with
1582 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or
1583 telephone orders are taken and shipped directly to consumers and which establishment is not a retail
1584 store open to the public.

1585 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
1586 observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

1587 "Licensed" means the holding of a valid license granted by the Authority.

1588 "Licensee" means any person to whom a license has been granted by the Authority.

1589 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
1590 content of 25 percent by volume.

1591 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
1592 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
1593 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
1594 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
1595 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
1596 this subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a

distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"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.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"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.

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

"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.

"Public place" does 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 Authority 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 that 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; (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 to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant

1658 establishment in determining whether it shall be considered as a resort complex. All other pertinent
1659 qualifications established by the Board for a hotel operation shall be observed by such licensee.

1660 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any
1661 establishment provided with special space and accommodation, where, in consideration of payment,
1662 meals or other foods prepared on the premises are regularly sold.

1663 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
1664 license, an established place of business (i) where meals with substantial entrees are regularly sold and
1665 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such
1666 meals for consumption at tables in dining areas on the premises, and includes establishments specializing
1667 in full course meals with a single substantial entree.

1668 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
1669 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
1670 beverages.

1671 "Sangria" means a drink consisting of red or white wine mixed with some combination of
1672 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
1673 similar spirits.

1674 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the
1675 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

1676 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
1677 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

1678 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable
1679 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and
1680 gin, or any one or more of the last four named ingredients, but shall not include any such liquors
1681 completely denatured in accordance with formulas approved by the United States government.

1682 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
1683 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk,
1684 either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and
1685 (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as
1686 provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do
1687 not exceed an alcohol content of 21 percent by volume.

1688 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
1689 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
1690 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
1691 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
1692 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
1693 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

1694 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
1695 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
1696 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by
1697 such retail licensee.

1698 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1699 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or
1700 the Department of Forensic Science, when signed by him, shall be *admissible as evidence in all*
1701 *prosecutions for violations of this subtitle and all controversies in any judicial proceedings touching the*
1702 *mixture analyzed by him of the facts therein stated and of the results of such analysis (i) in any*
1703 *criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and*
1704 *the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1*
1705 *or (ii) in any civil proceeding. On motion of the accused or any party in interest, the court may require*
1706 *the forensic scientist making the analysis to appear as a witness and be subject to cross-examination,*
1707 *provided such motion is made within a reasonable time prior to the day on which the case is set for*
1708 *trial.*

1709 **§ 4.1-600. Definitions.**

1710 As used in this subtitle, unless the context requires a different meaning:

1711 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction
1712 that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or
1713 marijuana seeds, or *regulated hemp products*, including any written, printed, graphic, digital, electronic,
1714 or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

1715 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

1716 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

1717 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

1718 "Canopy" means any area dedicated to live marijuana plant cultivation, including areas in which
1719 plants are grown, propagated, cloned, or maintained. If any such areas are stacked vertically, each level

of space shall be measured and included in the total canopy square footage.

"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to be significantly difficult for a typical child under five years of age to open and not to be significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that contains multiple servings, resealable.

"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, packaging, or other similar processing manufacturing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing processing or testing.

"Edible hemp product" means a hemp product intended to be consumed orally that is or contains an industrial hemp extract.

"Edible marijuana product" means a marijuana product intended to be consumed orally, including marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

"Hemp product" means the same as that term is defined in § 3.2-4112.

"Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

"Industrial hemp" means the same as that term is defined in § 3.2-4112.

"Industrial hemp extract" means any phytochemical that has been removed from industrial hemp. "Industrial hemp extract" is not a hemp seed-derived ingredient that is approved by the U.S. Food and Drug Administration or the subject of a generally recognized as safe notice for which the U.S. Food and Drug Administration had no questions.

"Licensed" means the holding of a valid license granted by the Authority.

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

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or; (ii) industrial hemp that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iii) a hemp product, as defined in § 3.2-4112, other than a regulated hemp product, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp; as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; or (iv) a regulated hemp product that does not exceed the maximum tetrahydrocannabinol concentration established pursuant to § 4.1-606 and that is derived from industrial hemp that is grown, dealt, or processed in compliance with state or federal law.

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and transporters; to transfer possession of and sell retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing processing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing processing facility, a marijuana wholesaler transporter, or a retail marijuana store.

"Marijuana manufacturing processing facility" means a facility licensed under this subtitle to manufacture process, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing processing facility; and to transfer possession of and sell retail marijuana and retail

1781 marijuana products to marijuana ~~wholesalers~~, *transporters*; and to transfer possession of and sell retail
 1782 marijuana and retail marijuana products to retail marijuana stores; or other marijuana ~~manufacturing~~
 1783 *processing* facilities.

1784 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either
 1785 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,
 1786 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,
 1787 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into
 1788 the human body marijuana.

1789 "Marijuana products" means (i) products that are composed of marijuana and other ingredients and
 1790 are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

1791 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test
 1792 marijuana, marijuana products, *regulated hemp products*, and other substances.

1793 "Marijuana ~~wholesaler transporter~~" means a facility licensed under this subtitle to ~~purchase or take~~
 1794 possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds
 1795 from a marijuana cultivation facility, a marijuana ~~manufacturing processing~~ facility, a *retail marijuana*
 1796 *store*, or another marijuana ~~wholesaler and transporter~~; to transfer possession and sell or resell of retail
 1797 marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana
 1798 cultivation facility, marijuana ~~manufacturing processing~~ facility, retail marijuana store, or another
 1799 marijuana ~~wholesaler transporter~~; and to transport retail marijuana, retail marijuana products,
 1800 *immature marijuana plants, and marijuana seeds from one licensed establishment to another.*

1801 "Non-retail marijuana" means marijuana that is not cultivated, ~~manufactured processed~~, or sold by a
 1802 licensed marijuana establishment.

1803 "Non-retail marijuana products" means marijuana products that are not ~~manufactured processed~~ and
 1804 sold by a licensed marijuana establishment.

1805 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
 1806 designated in the application for a license as the place at which the cultivation, ~~manufacture processing~~,
 1807 sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of
 1808 any such building or other improvement actually and exclusively used as a private residence.

1809 "*Processing*" or "*process*" means the production of marijuana products or *regulated hemp products*
 1810 *or the blending, infusing, compounding, or other preparation of marijuana and, marijuana products, or*
 1811 *regulated hemp products, including marijuana extraction or preparation by means of chemical synthesis.*
 1812 "*Processing*" or "*process*" does not include cultivation or testing.

1813 "Public place" means any place, building, or conveyance to which the public has, or is permitted to
 1814 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
 1815 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
 1816 highway, street, or lane.

1817 "*Regulated hemp product*" means a *hemp product intended for smoking or edible hemp products.*

1818 "Residence" means any building or part of a building or structure where a person resides, but does
 1819 not include any part of a building that is not actually and exclusively used as a private residence, nor
 1820 any part of a hotel or club other than a private guest room thereof.

1821 "Retail marijuana" means marijuana that is cultivated, ~~manufactured processed~~, or sold by a licensed
 1822 marijuana establishment.

1823 "Retail marijuana products" means marijuana products that are ~~manufactured processed~~ and sold by a
 1824 licensed marijuana establishment.

1825 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of
 1826 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
 1827 marijuana cultivation facility; *or marijuana manufacturing processing facility; or; to take possession of*
 1828 *retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a*
 1829 *marijuana wholesaler transporter; and to sell retail marijuana, retail marijuana products, immature*
 1830 *marijuana plants, or marijuana seeds to consumers.*

1831 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;
 1832 peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail
 1833 marijuana ~~or~~, retail marijuana products, *or regulated hemp products.*

1834 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has
 1835 designated as a law-enforcement officer pursuant to this subtitle.

1836 "Testing" or "test" means the research and analysis of marijuana, marijuana products, *regulated hemp*
 1837 *products*, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include
 1838 cultivation or ~~manufacturing processing~~.

1839 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

1840 A. The General Assembly has determined that there exists in the Commonwealth a need to control
 1841 the possession, sale, transportation, distribution, and delivery of retail marijuana ~~and~~, retail marijuana
 1842 products, *and regulated hemp products* in the Commonwealth. Further, the General Assembly determines

that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent.

B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of retail marijuana ~~and~~, retail marijuana products, *and regulated hemp products* in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which retail marijuana ~~and~~, retail marijuana products, *and regulated hemp products* are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings; compensation and expenses; duties.

A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding health warnings, retail marijuana ~~and~~, retail marijuana products, *and regulated hemp products* safety and product composition, and public health awareness, programming, and related resource needs.

B. The Advisory Council shall have a total membership of ~~24~~ 22 members that shall consist of ~~14~~ 15 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a community services board, one of whom shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom shall be a person with a social or health equity background; ~~and four~~ five to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative of a local health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, ~~and~~ one of whom shall be a registered medical cannabis patient, *and one of whom shall be a representative of a cannabis testing laboratory that has operated in the Commonwealth for no less than one year.*

The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

1904 The Advisory Council shall have the authority to create subgroups with additional stakeholders,
1905 experts, and state agency representatives.

1906 C. Members shall receive no compensation for the performance of their duties but shall be
1907 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as
1908 provided in §§ 2.2-2813 and 2.2-2825.

1909 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary
1910 to fulfill its purpose as described in subsection A:

1911 1. To review multi-agency efforts to support collaboration and a unified approach on public health
1912 responses related to marijuana and marijuana legalization in the Commonwealth and to develop
1913 recommendations as necessary.

1914 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the
1915 Commonwealth and the science and medical information relevant to the potential health risks associated
1916 with such drug use, and make appropriate recommendations to the Department of Health and the Board.

1917 3. ~~Submit~~ To submit an annual report to the Governor and the General Assembly for publication as a
1918 report document as provided in the procedures of the Division of Legislative Automated Systems for the
1919 processing of legislative documents and reports. The chairman shall submit to the Governor and the
1920 General Assembly an annual executive summary of the interim activity and work of the Advisory
1921 Council no later than the first day of each regular session of the General Assembly. The executive
1922 summary shall be submitted as a report document as provided in the procedures of the Division of
1923 Legislative Automated Systems for the processing of legislative documents and reports and shall be
1924 posted on the General Assembly's website.

1925 **§ 4.1-604. Powers and duties of the Board.**

1926 The Board shall have the following powers and duties:

1927 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
1928 § 4.1-606;

1929 2. Control the possession, sale, transportation, and delivery of marijuana ~~and~~, marijuana products,
1930 *regulated hemp products*;

1931 3. Grant, suspend, and revoke licenses for the cultivation, ~~manufacture~~ *processing*, *transportation*,
1932 distribution, sale, and testing of marijuana ~~and~~, marijuana products, *and regulated hemp products* as
1933 provided by law;

1934 4. Determine the nature, form, and capacity of all containers used for holding marijuana products *and*
1935 *regulated hemp products* to be kept or sold and prescribe the form and content of all labels and seals to
1936 be placed thereon;

1937 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

1938 6. Establish standards and implement an online course for employees of retail marijuana stores that
1939 trains employees on how to educate consumers on the potential risks of marijuana use;

1940 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
1941 similar document regarding the potential risks of marijuana use to be prominently displayed and made
1942 available to consumers;

1943 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business
1944 Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on
1945 matters related to diversity, equity, and inclusion standards in the marijuana industry;

1946 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop
1947 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who
1948 wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805,
1949 which may include a requirement that the licensee participate in social equity apprenticeship plan; and
1950 an approval process and requirements for implementation of such plans; (ii) be responsible for
1951 conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned
1952 businesses and veteran-owned businesses interested in participating in the marijuana industry and
1953 recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with
1954 business planning for potential marijuana establishment licensees; (iv) spread awareness of business
1955 opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana
1956 prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to
1957 potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas
1958 disproportionately impacted by marijuana prohibition and enforcement as necessary;

1959 ~~10.~~ Establish a position for an individual with professional experience in a health related field who
1960 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with
1961 the Office of the Secretary of Health and Human Resources and relevant health and human services
1962 agencies and organizations, and perform other duties as needed.

1963 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the
1964 Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana
1965 industry by people from communities that have been disproportionately impacted by marijuana

~~1966 prohibition and enforcement and to positively impact those communities;~~
~~1967 12. 9. Sue and be sued, implead and be impleaded, and complain and defend in all courts;~~
~~1968 13. 10. Adopt, use, and alter at will a common seal;~~
~~1969 14. 11. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,~~
~~1970 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority~~
~~1971 for the purpose of providing for the payment of the expenses of the Authority;~~
~~1972 15. 12. Make and enter into all contracts and agreements necessary or incidental to the performance~~
~~1973 of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle,~~
~~1974 including agreements with any person or federal agency;~~
~~1975 16. 13. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial~~
~~1976 experts, investment bankers, superintendents, managers, and such other employees and special agents as~~
~~1977 may be necessary and fix their compensation to be payable from funds made available to the Authority.~~
~~1978 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5~~
~~1979 (§ 2.2-500 et seq.) of Title 2.2;~~
~~1980 17. 14. Receive and accept from any federal or private agency, foundation, corporation, association,~~
~~1981 or person grants or other aid to be expended in accomplishing the objectives of the Authority, and~~
~~1982 receive and accept from the Commonwealth or any state and any municipality, county, or other political~~
~~1983 subdivision thereof or from any other source aid or contributions of either money, property, or other~~
~~1984 things of value, to be held, used, and applied only for the purposes for which such grants and~~
~~1985 contributions may be made. All federal moneys accepted under this section shall be accepted and~~
~~1986 expended by the Authority upon such terms and conditions as are prescribed by the United States and as~~
~~1987 are consistent with state law, and all state moneys accepted under this section shall be expended by the~~
~~1988 Authority upon such terms and conditions as are prescribed by the Commonwealth;~~
~~1989 18. 15. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its~~
~~1990 business shall be transacted and the manner in which the powers of the Authority shall be exercised and~~
~~1991 its duties performed. The Board may delegate or assign any duty or task to be performed by the~~
~~1992 Authority to any officer or employee of the Authority. The Board shall remain responsible for the~~
~~1993 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where~~
~~1994 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.~~
~~1995 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such~~
~~1996 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance~~
~~1997 of the duties and tasks;~~
~~1998 19. 16. Conduct or engage in any lawful business, activity, effort, or project consistent with the~~
~~1999 Authority's purposes or necessary or convenient to exercise its powers;~~
~~2000 20. 17. Develop policies and procedures generally applicable to the procurement of goods, services,~~
~~2001 and construction, based upon competitive principles;~~
~~2002 21. 18. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43~~
~~2003 of Title 2.2;~~
~~2004 22. 19. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or~~
~~2005 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes~~
~~2006 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any~~
~~2007 interest therein, at such annual rental and on such terms and conditions as may be determined by the~~
~~2008 Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any~~
~~2009 interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such~~
~~2010 annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or~~
~~2011 convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time~~
~~2012 acquired or held by the Authority on such terms and conditions as may be determined by the Board; and~~
~~2013 occupy and improve any land or building required for the purposes of this subtitle;~~
~~2014 23. 20. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be~~
~~2015 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,~~
~~2016 blending, and processing plants;~~
~~2017 24. 21. Appoint every agent and employee required for its operations, require any or all of them to~~
~~2018 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage~~
~~2019 the services of experts and professionals;~~
~~2020 25. 22. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the~~
~~2021 production of records, memoranda, papers, and other documents before the Board or any agent of the~~
~~2022 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board~~
~~2023 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take~~
~~2024 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any~~
~~2025 party aggrieved. The Board may enter into consent agreements and may request and accept from any~~
~~2026 applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a~~

license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

~~26.~~ 23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

~~27.~~ 24. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

~~28.~~ 25. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

~~29.~~ 26. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

~~30.~~ 27. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

~~31.~~ 28. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

~~32.~~ 29. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

~~33.~~ 30. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-606. Regulations of the Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent the illegal cultivation, ~~manufacture processing, transportation, distribution, sale, and testing of marijuana and, marijuana products, and regulated hemp products.~~ The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including security requirements to include lighting, physical security, and alarm requirements, provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2. Establish requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product *and regulated hemp product* preparation;

4. Establish a testing program for retail marijuana ~~and, retail marijuana products, and regulated hemp products~~ pursuant to Chapter 14 (§ 4.1-1400 et seq.);

5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer *and on regulated hemp products to be sold or offered for sale by a person* in accordance with the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail marijuana products; ~~which and regulated hemp products. Such tetrahydrocannabinol level for retail marijuana products~~ shall not exceed (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an equivalent amount for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible marijuana products and where practicable an equivalent amount for other marijuana products. Such regulations may include other product and dispensing limitations on tetrahydrocannabinol;

8. Establish requirements for the form, content, and retention of all records and accounts by all licensees *and by any person selling a regulated hemp product*;

9. Provide alternative methods for licensees *and any person selling a regulated hemp product* to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and offsite storage;

10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana

stores in the community and (ii) metrics that have similarly shown an association with negative community-level health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

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

12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to subsection C of § 4.1-1002;

13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of ~~§ 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3~~ as it relates to marijuana; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation of ~~§ 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3~~ as it relates to marijuana; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that is determined by the Board after utilizing census tract data made available by the United States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from a historically black college or university located in the Commonwealth;

14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana crimes and (ii) which jurisdictions are economically distressed;

15. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants;

16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation of marijuana that promote personal and public safety, including child protection, and discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

~~14.~~ 14. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana or, retail marijuana products, *or regulated hemp products*, not inconsistent with the provisions of this chapter, so that such advertising displaces the illicit market and notifies the public of the location of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

15. Establish restrictions on the number of licenses that a person may be granted to operate a marijuana establishment in single locality or region; and

16. Establish restrictions on ~~pharmaceutical processors and industrial hemp processors~~ *persons* that have been granted a license in more than one license category pursuant to subsection ~~C~~ *B* of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its retail marijuana stores.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the number of licenses issued shall not exceed the following limits:

- a. Retail marijuana stores, 400;
- b. Marijuana wholesalers, 25;
- c. Marijuana manufacturing facilities, 60; and
- d. Marijuana cultivation facilities, 450.

In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection ~~C~~ of ~~§ 4.1-805~~ to (i) a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (~~§ 54.1-3442.5 et seq.~~) of the Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (~~§ 3.2-4112 et seq.~~) of Title 3.2.

2. Prescribe any requirements deemed appropriate for the administration of taxes under ~~§§ § 4.1-1003 and 4.1-1004~~, including method of filing a return, information required on a return, and form of payment.

2150 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square
2151 feet.

2152 4. Allow certain persons to be granted or have interest in a license in more than one of the following
2153 license categories: marijuana cultivation facility license, marijuana manufacturing facility license,
2154 marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly
2155 to limit vertical integration to small businesses and ensure that all licensees have an equal and
2156 meaningful opportunity to participate in the market.

2157 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
2158 licensees.

2159 E. Courts shall take judicial notice of Board regulations.

2160 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
2161 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
2162 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of
2163 the members of the Cannabis Public Health Advisory Council.

2164 G. With regard to regulations governing licensees that have been issued a permit by the Board of
2165 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2
2166 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align
2167 such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish
2168 health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities
2169 and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such
2170 pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance
2171 with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than
2172 similar regulations promulgated pursuant to this subtitle.

2173 H. The Board's power to regulate shall be broadly construed.

2174 **§ 4.1-614. Disposition of moneys collected by the Board.**

2175 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or
2176 shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on
2177 account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as
2178 required by § 2.2-1802.

2179 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C,
2180 shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
2181 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
2182 expenses incurred in the administration of this subtitle.

2183 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller
2184 to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as
2185 otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from
2186 the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million
2187 in connection with the administration of this subtitle and to provide for the depreciation on the
2188 buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the
2189 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general
2190 appropriation act as follows:

2191 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;

2192 2. Thirty percent to the ~~Cannabis Equity Reinvestment~~ *Public School Assistance* Fund established
2193 pursuant to § ~~2.2-2499.8~~ *22.1-141.3*;

2194 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which
2195 shall distribute such appropriated funds to community services boards for the purpose of administering
2196 substance use disorder prevention and treatment programs; and

2197 4. Five percent to public health programs, including public awareness campaigns that are designed to
2198 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform
2199 the public of other potential risks.

2200 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less
2201 ~~local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 tax~~
2202 ~~revenues distributed to counties and cities pursuant to subsection D~~ and all costs, expenses, and charges
2203 authorized by this section.

2204 D. ~~All local~~ *One-third of all* tax revenues collected under § ~~4.1-1004~~ *4.1-1003* shall be *distributed to*
2205 *the county or city in which the taxable sale occurred. Such tax revenues shall be* paid into the state
2206 treasury as provided in subsection A and credited to a special fund, which is hereby created on the
2207 Comptroller's books under the name "~~Collections of Local Distribution of State Marijuana Taxes.~~" The
2208 revenues shall be credited to the account of the ~~locality~~ *county or city* in which they were collected. If
2209 revenues were collected from a marijuana establishment located in more than one ~~locality~~ *county or city*
2210 by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall
2211 be distributed pro rata among the ~~localities~~ *counties or cities*. The Authority shall provide to the

Comptroller any records and assistance necessary for the Comptroller to determine the ~~locality~~ county or city to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each ~~locality~~ county or city entitled to the ~~return~~ of its state tax revenues, and such payments shall be charged to the account of each such ~~locality~~ county or city under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

§ 4.1-620. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor, the General Assembly, and the Chief Executive Officer of the Authority on or before December 15 each year, which shall contain:

1. The number of state licenses of each category issued pursuant to this subtitle;
2. Demographic information concerning the licensees;
3. A description of enforcement and disciplinary actions taken against licensees;
4. A statement of revenues and expenses related to the implementation, administration, and enforcement of this subtitle;

5. A statement showing the taxes collected under this subtitle during the year;

6. General information and remarks about the working of the cannabis control laws within the Commonwealth; and

7. A description of the efforts undertaken by the Board to promote diverse business ownership within the cannabis industry; and

8. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 4.1-629. Local referendum on prohibition of retail marijuana stores.

A. The governing body of a locality may, by resolution, petition the circuit court for the locality for a referendum on the question of whether retail marijuana stores should be prohibited in the locality.

Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city, or town)?"

The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the certifications required by such section, the secretary of the local electoral board shall certify the results of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing body of the locality.

B. If a majority of the qualified voters voting in such referendum vote "No" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to operate within the locality 60 days after the results are certified or on January 1, 2024, whichever is later, and no subsequent referendum may be held pursuant to this section within such locality.

If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in the locality effective January 1 of the year immediately following the referendum. A referendum on the same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four years following the date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of this section.

C. When any referendum is held pursuant to this section in a town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county. When any referendum is held pursuant to this section in a county, any town located within such county, shall be treated as being part of such county.

D. The legality of any referendum held pursuant to this section shall be subject to the inquiry,

determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the judgment of the court entered of record shall be a final determination of the legality of the referendum.

§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana products.

A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance or resolution that regulates or prohibits the cultivation, processing, possession, sale, distribution, handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail marijuana products in the Commonwealth.

B. However, the governing body of any county, city, or town may adopt an ordinance (i) that prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty for violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail marijuana products containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and land use requirements and business license requirements.

D. Except as provided in this section, all local acts, including charter provisions and ordinances of counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such inconsistency.

§ 4.1-631. Local ordinances regulating time of sale of retail marijuana and retail marijuana products.

The governing body of each county may adopt ordinances effective in that portion of such county not embraced within the corporate limits of any incorporated town, and the governing body of each city and town may adopt ordinances effective in such city or town, fixing hours during which retail marijuana and retail marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of appeal pursuant to § 16.1-106.

A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing body adopting it and transmitted to the Board.

On and after the effective date of any ordinance adopted pursuant to this section, no retail marijuana store shall sell retail marijuana and retail marijuana products during the hours limited by the ordinance.

CHAPTER 7.

ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

§ 4.1-700. Exemptions from licensure.

The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; (iii) a manufacturer of an edible hemp product operating in accordance with Article 6 (§ 3.2-5145.6 et seq.) of Chapter 51 of Title 3.2; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed premises a pharmaceutical processing facility in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to cultivate, process, transport, sell, or test retail marijuana or retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil penalties.

A. Each license granted by the Board shall designate the place where the business of the licensee

will be carried on. A separate license shall be required for each separate place of business.

B. No license shall be transferable from one location to another or from one person to another unless such transfer is conducted in accordance with Board regulations.

C. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the privileges of an existing license.

D. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

E. The privileges conferred by any license granted by the Board shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Board.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

F. The Board may permit a licensee who fails to pay:

1. The required license fee covering the continuation or reissuance of his license by midnight of the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is greater; and

2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

§ 4.1-703. Records of licensees; inspection of records and places of business.

A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in accordance with Board regulations of all retail marijuana and retail marijuana products it cultivated, purchased, processed, sold, developed, researched, tested, or shipped.

B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance with Board regulations of all purchases of retail marijuana products, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail marijuana products sold and the total price charged by it therefor. Except as otherwise provided in subsections D and E, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation.

Notwithstanding the provisions of subsection E, electronic records of licensed retail marijuana stores may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees or persons who submit retail marijuana or retail marijuana products to the marijuana testing facility.

E. The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting such place and all records, invoices, and accounts therein.

For the purposes of a Board inspection of the records of any retail marijuana store 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" means the business hours when the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records are not available for inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

§ 4.1-800. Marijuana cultivation facility license.

A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize the licensee to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of retail marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; and to transfer possession of and sell retail marijuana to marijuana processing facilities:

1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors or outdoors not more than 150 mature marijuana plants.

2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors or outdoors not more than 500 mature marijuana plants.

3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors not more than 1,000 mature marijuana plants.

4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors not more than 2,000 mature marijuana plants.

B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana testing facility, a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail marijuana store or is disposed of or destroyed.

C. All areas within the licensed premises of a marijuana cultivation facility in which retail marijuana is cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by the Board.

§ 4.1-801. Marijuana processing facility license.

A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to process, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and sell retail marijuana and retail marijuana products to retail marijuana stores or other marijuana processing facilities; and to transfer possession of retail marijuana and retail marijuana products to marijuana transporters.

B. All areas within the licensed premises of a marijuana processing facility in which retail marijuana and retail marijuana products are processed shall meet all sanitary standards specified in regulations adopted by the Board. A marijuana processing facility that processes an edible marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track the retail marijuana it uses in its processing from the point the retail marijuana is delivered or transferred to the marijuana processing facility by a marijuana transporter licensee to the point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or transferred to another marijuana processing facility, a marijuana testing facility, or a marijuana transporter or are disposed of or destroyed.

§ 4.1-802. Retail marijuana store license.

A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility or marijuana processing facility; to take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana transporter; and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board.

B. Retail marijuana stores shall be operated in accordance with the following provisions:

1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds using:

a. An automated dispensing or vending machine;

b. A drive-through sales window;

c. An Internet-based sales platform; or

d. A delivery service.

3. A retail marijuana store shall not be permitted to sell more than one ounce of retail marijuana or

an equivalent amount of retail marijuana products as determined by regulation promulgated by the Board during a single transaction to one person.

4. A retail marijuana store shall not:

a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by this subtitle; or

b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to any person when at the time of such sale he knows or has reason to believe that the person attempting to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age.

5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred to the retail marijuana store to the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2.

C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

D. Each retail marijuana store licensee shall prominently display and make available for dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees educating them on how to discuss the potential risks of marijuana use with consumers.

F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act shall authorize the licensee to exercise any privileges set forth in subsection A at the place of business designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional retail establishments of the licensee. Such additional retail establishments shall be located at the five cannabis dispensing facilities for which the Board of Pharmacy has issued a permit pursuant to subsection B of § 54.1-3442.6 in the health service area in which the pharmaceutical processing facility is located.

G. All areas within the licensed premises of a retail marijuana store in which retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary standards specified in regulations adopted by the Board.

§ 4.1-803. Marijuana transporter license.

A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another marijuana transporter; to transfer possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail marijuana store, or another marijuana transporter; and to transport retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from one licensed establishment to another.

B. All areas within the licensed premises of a marijuana transporter in which retail marijuana and retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to the point at which the retail marijuana, retail marijuana products, plants, or seeds are transferred to a marijuana processor, marijuana transporter, retail marijuana store, or marijuana testing facility or are disposed of or destroyed.

§ 4.1-804. Marijuana testing facility license.

A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop, research, or test retail marijuana, retail marijuana products, regulated hemp products, and other substances.

B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana

2519 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail
2520 marijuana or retail marijuana product for personal use as authorized under § 4.1-1100.

2521 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a
2522 marijuana testing facility from developing, researching, or testing substances that are not marijuana,
2523 marijuana products, or regulated hemp products for that facility or for another person.

2524 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
2525 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
2526 Standardization by a third-party accrediting body.

2527 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track
2528 all retail marijuana and retail marijuana products it receives from a licensee for testing purposes from
2529 the point at which the retail marijuana or retail marijuana products are delivered or transferred to the
2530 marijuana testing facility to the point at which the retail marijuana or retail marijuana products are
2531 disposed of or destroyed.

2532 F. A person that has an interest in a marijuana testing facility license shall not have any interest in
2533 a licensed marijuana cultivation facility, a licensed marijuana processing facility, a licensed marijuana
2534 transporter, or a licensed retail marijuana store.

2535 G. All areas within the licensed premises of a marijuana testing facility in which retail marijuana,
2536 retail marijuana products, or regulated hemp products are tested or stored shall meet all sanitary
2537 standards specified in regulations adopted by the Board.

2538 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

2539 A. As used in this section, "interest" means an equity ownership interest or a partial equity
2540 ownership interest or any other type of financial interest, including but not limited to being an investor
2541 or serving in a management position.

2542 B. A person may possess or hold interest in one or any combination of the following licenses: tier I
2543 marijuana cultivation facility license, tier II marijuana cultivation facility license, tier III marijuana
2544 cultivation facility license, tier IV marijuana cultivation facility license, marijuana processing facility
2545 license, marijuana transporter license, or retail marijuana store license. However, (i) no person shall be
2546 granted or hold interest in more than five total licenses, not including marijuana transporter licenses,
2547 issued pursuant to this subtitle and (ii) no person that has been granted or holds interest in a marijuana
2548 cultivation facility license, marijuana processing facility license, marijuana transporter license, or retail
2549 marijuana store license shall be issued or hold interest in a marijuana testing facility license.

2550 **§ 4.1-806. Temporary permits required in certain instances.**

2551 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,
2552 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board
2553 and who has become lawfully entitled to the possession of the licensed premises to continue to operate
2554 the marijuana establishment to the same extent as the license holder for a period not to exceed 60 days
2555 or for such longer period as determined by the Board. Such permit shall be temporary and shall confer
2556 the privileges of any licenses held by the previous owner to the extent determined by the Board. Such
2557 temporary permit may be issued in advance, conditioned on the requirements in this subsection.

2558 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for
2559 any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a
2560 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon
2561 the expiration of three business days after the order of the revocation has been mailed to the permittee
2562 at either his residence or the address given for the business in the permit application. No further notice
2563 shall be required.

2564 **§ 4.1-807. Licensee shall maintain possession of premises.**

2565 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises
2566 of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease,
2567 rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the
2568 premises. If the licensee fails to maintain possession of the licensed premises, the license shall be
2569 revoked by the Board.

2570 **§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee by**
2571 **licensee, agent, or employee.**

2572 No marijuana or marijuana products may be used or consumed on the premises of a licensee by the
2573 licensee or any agent or employee of the licensee, except for certain sampling for quality control
2574 purposes that may be permitted by Board regulation.

2575 **§ 4.1-809. Conditions under which the Board shall or may refuse to grant licenses.**

2576 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting
2577 of the license would be detrimental to the interest, morals, safety, or welfare of the public or would be
2578 inconsistent with the provisions of this subtitle.

2579 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

2580 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant

is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Is not 21 years of age or older;
 - b. Is not a resident of the Commonwealth;
 - c. Has been convicted in any court of any crime or offense involving moral turpitude under the laws of any state or of the United States within seven years of the date of the application or has not completed all terms of sentencing and probation resulting from any such felony conviction;
 - d. Knowingly employs or allows to volunteer someone younger than 21 years of age;
 - e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business that have not been disclosed;
 - f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;
 - g. Has misrepresented a material fact in applying to the Board for a license;
 - h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent;
 - i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his application for a license is pending;
 - j. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;
 - k. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; or
 - l. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated.
2. The applicant is a member or employee of the Board or is a corporation or other business entity in which a member or employee of the Board is a stockholder or has any other economic interest. Whenever any other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interest applies for such a license, it shall state on the application the full economic interests of each such official in such corporation or other business entity.
3. The place to be occupied by the applicant:
- a. Does not conform to the requirements of the governing body of the county, city, or town in which such place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;
 - b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;
 - c. When the applicant is applying for a retail marijuana store license, is so located with respect to any place of religious worship; hospital; public, private, or parochial school or institution of higher education; public or private playground or other similar recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local government-operated facility that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;
 - d. When the applicant is applying for a retail marijuana store license, is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area;
 - e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an existing retail marijuana store;
 - f. When the applicant is applying for a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which retail marijuana or retail marijuana products are to be sold; or
 - g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured,

2642 sold, or used.

2643 Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or
2644 premises until the final stage of the license approval process.

2645 4. The number of licenses existing in the locality is such that the granting of a license is detrimental
2646 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
2647 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail
2648 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and
2649 number of all licenses existent in the particular county, city, or town and the immediate neighborhood
2650 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in
2651 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by
2652 a local governing body or local residents.

2653 5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
2654 political subdivision thereof that warrants refusal by the Board to grant any license.

2655 6. The Board is not authorized under this subtitle to grant such license.

2656 **§ 4.1-810. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
2657 **exceptions.**

2658 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
2659 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
2660 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided
2661 by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of
2662 Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the
2663 circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the
2664 Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

2665 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store
2666 license, provided that such:

2667 1. License for the applicant has been refused or revoked within a period of 12 months;

2668 2. License for any premises has been refused or revoked at that location within a period of 12
2669 months; or

2670 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by
2671 the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there
2672 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
2673 alleging a violation of this subtitle.

2674 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of
2675 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
2676 the Board may refuse a hearing on an application for a new license until after the date on which the
2677 suspension period would have been executed had the license not have been permitted to expire.

2678 CHAPTER 9.

2679 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

2680 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

2681 The Board may suspend or revoke any license if it has reasonable cause to believe that:

2682 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
2683 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if
2684 the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its
2685 capital stock, or if the licensee is a limited liability company, any member-manager or any member
2686 owning 10 percent or more of the membership interest of the limited liability company:

2687 a. Has misrepresented a material fact in applying to the Board for such license;

2688 b. Within the five years immediately preceding the date of the hearing held in accordance with
2689 § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et
2690 seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii)
2691 violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or
2692 refused to comply with any of the conditions or restrictions of the license granted by the Board;

2693 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
2694 under the laws of any state or of the United States;

2695 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
2696 other persons have ownership interests in the business that have not been disclosed;

2697 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
2698 conducted under the license granted by the Board;

2699 f. Has been intoxicated or under the influence of some self-administered drug while upon the
2700 licensed premises;

2701 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
2702 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1
2703 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product except as provided under this subtitle;

j. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises; or

o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of the United States by prices charged or otherwise.

4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed premises in the Commonwealth.

7. Any other cause authorized by this subtitle.

§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises

2765 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any
2766 portion of public property immediately adjacent to the licensed premises, and the Board finds that there
2767 exists a continuing threat to public safety and that summary suspension of the license or permit is
2768 justified to protect the health, safety, or welfare of the public.

2769 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
2770 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
2771 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify
2772 the licensee of its intention to temporarily suspend his license pending the outcome of a formal
2773 investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the
2774 48-hour period, the licensee may petition the Board for a restricted license pending the results of the
2775 formal investigation and proceedings for disciplinary review. If the Board determines that a restricted
2776 license is warranted, the Board shall have discretion to impose appropriate restrictions based on the
2777 facts presented.

2778 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a
2779 formal investigation. The formal investigation shall be completed within 10 days of its commencement
2780 and the findings reported immediately to the Secretary of the Board. If, following the formal
2781 investigation, the Secretary of the Board determines that suspension of the license is warranted, a
2782 hearing shall be held within five days of the completion of the formal investigation. A decision shall be
2783 rendered within 10 days of the conclusion of the hearing. If a decision is not rendered within 10 days of
2784 the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any
2785 appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20
2786 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion
2787 of the appeal hearing.

2788 D. Service of any order of suspension issued pursuant to this section shall be made by a special
2789 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take
2790 effect immediately upon service.

2791 E. This section shall not apply to temporary permits granted under § 4.1-806.

2792 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

2793 The Board shall suspend or revoke any license if it finds that:

2794 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
2795 of a gambling device, upon the premises for which the Board has granted a retail marijuana store
2796 license.

2797 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
2798 government or governmental agency or authority, by making or filing any report, document, or tax
2799 return required by statute or regulation that is fraudulent or contains a willful or knowing false
2800 representation of a material fact or has willfully deceived or attempted to deceive the Board, or any
2801 federal, state, or local government or governmental agency or authority, by making or maintaining
2802 business records required by statute or regulation that are false or fraudulent.

2803 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

2804 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
2805 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
2806 Administrative Process Act (§ 2.2-4000 et seq.).

2807 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,
2808 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the
2809 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or
2810 present employee of the licensee to any law-enforcement officer, the existence of which is known by the
2811 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
2812 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
2813 places, or copies or portions thereof, that are within the possession, custody, or control of the Board
2814 and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle
2815 against the licensee. In addition, any subpoena for the production of documents issued to any person at
2816 the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the
2817 documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

2818 If the Board fails to provide for inspection or copying under this section for the licensee after a
2819 written request, the Board shall be prohibited from introducing into evidence any items the licensee
2820 would have lawfully been entitled to inspect or copy under this section.

2821 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be
2822 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
2823 review shall extend to the entire evidential record of the proceedings provided by the Board in
2824 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any
2825 order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall
2826 not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.

Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license, the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its employees marijuana seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board regulations.

§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products on hand; termination.

A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

2. Destroyed by the Board or its designee.

B. All retail marijuana or retail marijuana products owned by or in the possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within 60 days from the date of such suspension or revocation.

C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any person described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

CHAPTER 10.

ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.

2888 A. Every person intending to apply for any license authorized by this subtitle shall file with the
2889 Board an application on forms provided by the Board and a statement in writing by the applicant
2890 swearing and affirming that all of the information contained therein is true.

2891 Applicants for licenses for establishments that are otherwise required to obtain an inspection by the
2892 Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a
2893 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending
2894 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of
2895 a pending application or inspection, such license shall authorize the licensee to purchase retail
2896 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds in accordance
2897 with the provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana
2898 products, immature marijuana plants, or marijuana seeds until an inspection is completed.

2899 B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of
2900 his application with the Board on the front door of the building, place, or room where he proposes to
2901 engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a
2902 size and contain such information as required by the Board, including a statement that any objections
2903 shall be submitted to the Board not more than 30 days following initial posting of the notice required
2904 pursuant to this subsection.

2905 The applicant shall also cause notice to be published at least once a week for two consecutive weeks
2906 in a newspaper published in or having a general circulation in the county, city, or town wherein such
2907 applicant proposes to engage in such business. Such notice shall contain such information as required
2908 by the Board, including a statement that any objections to the issuance of the license be submitted to
2909 the Board not later than 30 days from the date of the initial newspaper publication.

2910 The Board shall conduct a background investigation, to include a criminal history records search,
2911 which may include a fingerprint-based national criminal history records search, on each applicant for a
2912 license. However, the Board may waive, for good cause shown, the requirement for a criminal history
2913 records search and completed personal data form for officers, directors, nonmanaging members, or
2914 limited partners of any applicant corporation, limited liability company, or limited partnership. In
2915 considering criminal history record information, the Board shall not disqualify an applicant because of
2916 a past conviction for a marijuana-related offense.

2917 The Board shall notify the local governing body of each license application through the town
2918 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
2919 shall submit objections to the granting of a license within 30 days of the filing of the application.

2920 C. Each applicant shall pay the required application fee at the time the application is filed. The
2921 license application fee shall be determined by the Board and shall be in addition to the actual cost
2922 charged to the Department of State Police by the Federal Bureau of Investigation or the Central
2923 Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation
2924 or the Central Criminal Records Exchange for each criminal history records search required by the
2925 Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and
2926 shall not be refunded.

2927 D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
2928 all licensees shall file and maintain with the Board a current, accurate record of the information
2929 required by the Board pursuant to subsection A and notify the Board of any changes to such
2930 information in accordance with Board regulations.

2931 E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
2932 Board. Such permits shall confer upon their holders no authority to make solicitations in the
2933 Commonwealth as otherwise provided by law.

2934 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
2935 applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent
2936 and multiplied by the number of months for which the permit is granted.

2937 F. The Board shall have the authority to increase state license fees. The Board shall set the amount
2938 of such increases on the basis of the consumer price index and shall not increase fees more than once
2939 every three years. Prior to implementing any state license fee increase, the Board shall provide notice to
2940 all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new
2941 fee that would be required for any license affected by the Board's proposed fee increases. Such notice
2942 shall be provided on or before November 1 in any year in which the Board has decided to increase
2943 state license fees, and such increases shall become effective July 1 of the following year.

2944 **§ 4.1-1001. Fees for state licenses.**

2945 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover
2946 the costs of regulating the marijuana establishment.

2947 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be
2948 equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the
2949 number of months in the license period, and then increased by five percent. Such fee shall not be

refundable, except as provided in § 4.1-1002.

C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall be liable to state merchants' license taxation and other state taxation.

D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

E. The Board may waive all or part of the initial license fee if (i) the license applicant is a service disabled veteran, as defined in § 2.2-4310, or a small, women-owned, or minority-owned business, as those terms are defined in § 2.2-1604, that is certified by the Department of Small Business and Supplier Diversity pursuant to § 2.2-1606 or (ii) the licensed marijuana establishment would be located in a historically economically disadvantaged community, as defined in § 56-576.

§ 4.1-1002. Refund of state license fee.

A. The Board may correct erroneous assessments made by it against any person and make refunds of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by any licensee for any license that is subsequently merged or changed into another license during the same license period. No refund shall be made of any such amount, however, unless made within three years from the date of collection of the same.

B. In any case where a licensee has changed its name or form of organization during a license period without any change being made in its ownership, and because of such change is required to pay an additional license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of the required license fee for such period.

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

§ 4.1-1003. Marijuana tax; exceptions.

A. A tax of 12 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail marijuana products. The tax shall be in lieu of any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of state or local law.

B. The tax shall not apply to any sale:

1. From a marijuana establishment to another marijuana establishment.
2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.
3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.
4. Of a hemp product or regulated hemp product.

C. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1004. Tax returns and payments; commissions; interest.

A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1007.

C. The Authority may accept payment by any commercially acceptable means, including cash, checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments made under this subsection. The Authority may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the business, such person shall make a final return and payment within 15 days after the date of selling or

3011 *quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the*
3012 *purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such*
3013 *former owner produces a receipt from the Authority showing payment or a certificate stating that no*
3014 *taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the*
3015 *purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes,*
3016 *interest, and penalties due and unpaid on account of the operation of the business by any former owner.*

3017 *F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a*
3018 *rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due*
3019 *under § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.*

3020 **§ 4.1-1005. Bonds.**

3021 *The Authority may, when deemed necessary and advisable to do so in order to secure the collection*
3022 *of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such*
3023 *surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that*
3024 *may become due from such person. In lieu of such bond, securities approved by the Authority may be*
3025 *deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer,*
3026 *and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it*
3027 *becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth.*
3028 *Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who*
3029 *deposited the securities.*

3030 **§ 4.1-1006. Refunds.**

3031 *A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to*
3032 *§ 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise*
3033 *deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer;*
3034 *(ii) destroyed voluntarily because the taxable items were defective and after notice to and approval by*
3035 *the Authority of such destruction; or (iii) destroyed in any manner while in the possession of a common,*
3036 *private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a*
3037 *refund payment from the state treasury to such extent as may be proper.*

3038 *B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable*
3039 *items that have been sold by such person in such manner as to be exempt from the tax, the Authority*
3040 *shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to*
3041 *such extent as may be proper.*

3042 *C. In the event purchases are returned to the seller by the buyer after a tax imposed under*
3043 *§ 4.1-1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a*
3044 *refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The*
3045 *amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount*
3046 *retained by the seller after such return of merchandise. In case the tax has not been remitted by the*
3047 *seller, the seller may deduct the same in submitting his return.*

3048 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
3049 **penalties.**

3050 *A. The taxes imposed under §§ 4.1-1003 shall be assessed within three years from the date on which*
3051 *such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud*
3052 *the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for*
3053 *the collection of such taxes may be begun without assessment, at any time within six years from such*
3054 *date. The Authority shall not examine any person's records beyond the three-year period of limitations*
3055 *unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required*
3056 *by law to file a return and failed to do so.*

3057 *B. If any person fails to file a return as required by this section, or files a return that is false or*
3058 *fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such*
3059 *person and assess the tax, plus any applicable interest and penalties. The Authority shall give such*
3060 *person 10 days' notice requiring such person to provide any records as it may require relating to the*
3061 *business of such person for the taxable period. The Authority may require such person or the agents*
3062 *and employees of such person to give testimony or to answer interrogatories under oath administered by*
3063 *the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any*
3064 *person fails to file a required return, refuses to provide required records, or refuses to answer*
3065 *interrogatories from the Authority, the Authority may make an estimated assessment based upon the*
3066 *information available to it and issue a memorandum of lien under subsection C for the collection of any*
3067 *taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.*

3068 *C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay*
3069 *within 30 days after the due date, taking into account any extensions granted by the Authority, the*
3070 *Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which*
3071 *the person's place of business is located or in which the person resides. If the person has no place of*
3072 *business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of*

the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1008.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release of the lien within seven days after such determination is made.

§ 4.1-1008. Appeals.

Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.

A. Notwithstanding the provisions of subdivision (c) of § 18.2-248.1, a person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

A person may only cultivate marijuana plants pursuant to this section at such person's main place of residence.

A violation of this subsection shall be punishable as follows:

1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

B. A person who cultivates marijuana for personal use pursuant to this section shall:

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;

2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the marijuana plant is being grown for personal use as authorized under this section.

Any person who violates this subsection is subject to a civil penalty of no more than \$25. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

3134 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner
3135 of a property or parcel or tract of land may not intentionally or knowingly allow another person to
3136 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land. A
3137 violation of this subsection is punishable as a Class 1 misdemeanor.

3138 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana products;**
3139 **conspiracy; penalties.**

3140 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or
3141 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
3142 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

3143 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

3144 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
3145 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to
3146 such conspiracy is guilty of a Class 6 felony.

3147 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

3148 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons
3149 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in
3150 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the
3151 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
3152 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for
3153 goods or services.

3154 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
3155 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
3156 subsection C, he is guilty of a Class 2 misdemeanor.

3157 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

3158 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
3159 does not exceed one ounce or of an equivalent amount of marijuana products.

3160 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal**
3161 **age; penalties.**

3162 A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana
3163 products to any individual when at the time of such sale he knows or has reason to believe that the
3164 individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person
3165 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3166 B. It is unlawful for any person to sell or distribute, or possess with the intent to sell or distribute,
3167 marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this
3168 subsection is guilty of a Class 1 misdemeanor.

3169 C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication
3170 any advertisement, knowing or under circumstances where one reasonably should know, that the purpose
3171 of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons
3172 younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1
3173 misdemeanor.

3174 D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an
3175 individual who is younger than 21 years of age and at the time of the sale does not require the
3176 individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or
3177 older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any
3178 evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the
3179 United States or the District of Columbia, military identification card, United States passport or foreign
3180 government visa, unexpired special identification card issued by the Department of Motor Vehicles, or
3181 any other valid government-issued identification card bearing the individual's photograph, signature,
3182 height, weight, and date of birth, or which bears a photograph that reasonably appears to match the
3183 appearance of the purchaser. A student identification card shall not constitute bona fide evidence of
3184 legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty
3185 of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take
3186 administrative action against a licensee for the conduct of his employee who violates this subsection.

3187 E. No person shall be convicted of both subsections A and D for the same sale.

3188 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
3189 **exceptions; penalties; forfeiture; treatment and education programs and services.**

3190 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under
3191 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any
3192 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local
3193 law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary
3194 in the performance of his duties. Such person may be prosecuted either in the county or city in which
3195 the marijuana or marijuana products were possessed or consumed or in the county or city in which the

person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a similar program available through a facility or program operated by or under contract with the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such substance abuse treatment or education program to which a person 18 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health and Developmental Services or (b) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-1104.

§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; treatment and education programs and services.

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. ~~Any~~ Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

3257 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
3258 Assessment and Treatment Fund established pursuant to § 18.2-251.02.

3259 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may**
3260 **not be sold; penalties; forfeiture.**

3261 A. Any person who purchases retail marijuana or retail marijuana products for another person and
3262 at the time of such purchase knows or has reason to believe that the person for whom the retail
3263 marijuana or retail marijuana products were purchased was intoxicated is guilty of a Class 1
3264 misdemeanor.

3265 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
3266 marijuana or retail marijuana products to, another person when he knows or has reason to know that
3267 such person is younger than 21 years of age, except by any federal, state, or local law-enforcement
3268 officer when possession of marijuana or marijuana products is necessary in the performance of his
3269 duties, is guilty of a Class 1 misdemeanor.

3270 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
3271 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

3272 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana products;**
3273 **penalty; exception.**

3274 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the
3275 Commonwealth.

3276 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3277 **§ 4.1-1113. Maintaining common nuisances; penalties.**

3278 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
3279 every description where marijuana or marijuana products are manufactured, processed, stored, sold,
3280 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed
3281 common nuisances.

3282 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
3283 nuisance.

3284 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3285 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
3286 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and
3287 4.1-1305 and upon proof of guilty knowledge, judgment may be given that such house, boathouse,
3288 building, boat, car, or other place, or any room or part thereof, be closed. The court may, upon the
3289 owner or lessor giving bond in the penalty of not less than \$500 and with security to be approved by
3290 the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of the
3291 provisions of this subtitle for a period of five years, turn the same over to its owner or lessor, or
3292 proceeding may be had in equity as provided in § 4.1-1305.

3293 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
3294 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and
3295 (ii) had the right, because of such unlawful use, to enter and repossess the property.

3296 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

3297 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
3298 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its
3299 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a
3300 law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
3301 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered
3302 a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class
3303 5 felony.

3304 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

3305 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or
3306 any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and
3307 decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized
3308 by the Board to hold and conduct such hearing.

3309 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3310 **§ 4.1-1116. Illegal advertising; penalty; exception.**

3311 A. Except in accordance with this title and Board regulations, no person shall advertise in or send
3312 any advertising matter into the Commonwealth about or concerning marijuana other than such that may
3313 legally be manufactured or sold without a license.

3314 B. Marijuana cultivation facility licensees, marijuana processing facility licensees, marijuana
3315 transporter licensees, and retail marijuana store licensees may engage in the display of outdoor retail
3316 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display
3317 is done in accordance with § 4.1-1405 and Board regulations.

3318 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of

a Class 1 misdemeanor.

D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this title and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.

No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional facility or any person committed to the Department of Juvenile Justice in any juvenile correctional center any marijuana or marijuana products.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1118. Separation of plant resin by butane extraction; penalty.

A. No person shall separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.

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

§ 4.1-1119. Attempts; aiding or abetting; penalty.

No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in doing, or attempting to do, any of the things prohibited by this subtitle.

On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.

Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

CHAPTER 12.

PROHIBITED PRACTICES BY LICENSEES.

§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Cultivate, process, transport, sell, or test any retail marijuana or retail marijuana products of a kind other than that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

2. Sell retail marijuana or retail marijuana products to any person other than a person to whom such license or this subtitle authorizes him to sell;

3. Cultivate, process, transport, sell, or test retail marijuana or retail marijuana products that such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

4. Cultivate, process, transport, sell, or test any retail marijuana or retail marijuana products when forbidden by this subtitle;

5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana or retail marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test by such license or by this subtitle;

6. Keep any retail marijuana or retail marijuana product other than in the container in which it was purchased by him; or

7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

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

§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.

A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved in the selling of retail marijuana or retail marijuana products to consumers.

B. No retail marijuana store licensee or his agent or employee shall make any gift of any retail marijuana or retail marijuana products.

C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-1202. Sale of; purchase for resale; retail marijuana or retail marijuana products from a person without a license; penalty.

3380 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
3381 resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
3382 seeds purchased from anyone other than a marijuana cultivation facility or marijuana processing
3383 facility.

3384 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3385 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by licensees;**
3386 **penalty.**

3387 A. No licensed marijuana establishment shall transfer any retail marijuana or retail marijuana
3388 products from one licensed place of business to another licensed place of business unless such transfer
3389 is completed by a marijuana transporter licensee.

3390 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3391 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

3392 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any
3393 licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
3394 decorations under circumstances prohibited by this title or Board regulations.

3395 Any person found by the Board to have violated this section shall be subject to a civil penalty as
3396 authorized in § 4.1-903.

3397 **§ 4.1-1205. Solicitation by persons interested in cultivation, etc., of retail marijuana or retail**
3398 **marijuana products; penalty.**

3399 A. No person having any interest, direct or indirect, in the cultivation, processing, distribution, or
3400 sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board and
3401 upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail
3402 marijuana store licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with
3403 the licensee in any capacity whatsoever in his licensed business to sell or offer for sale the retail
3404 marijuana or retail marijuana products in which such person may be so interested.

3405 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate
3406 the sale of the retail marijuana or retail marijuana products that were the subject matter of the
3407 unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail
3408 marijuana or retail marijuana products cultivated, processed, or distributed by either the employer or
3409 principal of such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted.
3410 The Board may impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination
3411 of sales, or both.

3412 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3413 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person
3414 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
3415 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

3416 The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty
3417 not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

3418 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3419 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or**
3420 **to allow examination and inspection; penalty.**

3421 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,
3422 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or
3423 (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in
3424 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
3425 misdemeanor.

3426 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
3427 may suspend or revoke any license of such licensee that was issued by the Authority.

3428 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

3429 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due
3430 under § 4.1-1003. No retail marijuana store licensee shall purchase, receive, transport, store, or sell
3431 any retail marijuana or retail marijuana products on which such retailer has reason to know such tax
3432 has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty
3433 of a Class 1 misdemeanor.

3434 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil
3435 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for
3436 not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof,
3437 during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

3438 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
3439 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50
3440 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any
3441 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the

Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five days after the Authority gives it notice that such check was returned unpaid, the person that tendered the check is guilty of a violation of § 18.2-182.1.

E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

§ 4.1-1300. Enjoining nuisances.

A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113 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 marijuana or marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such house, building, or other place described in § 4.1-1113 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 and tenants and their agents and employees, and any person connected with such house, building, or other place, and all persons whomsoever from cultivating, processing, storing, selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain all persons from removing any marijuana or marijuana products 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.

§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.

A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products, all marijuana or marijuana products and materials used in their manufacture or processing, all containers in which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid such person in the unlawful cultivation, manufacture, processing, transportation, or sale of marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products are being unlawfully manufactured or processed and where such animal or vehicle is being used to aid in the unlawful manufacture or processing, shall be deemed contraband and shall be forfeited to the Commonwealth.

B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 4.1-1303. Search warrants.

A. If complaint on oath is made that marijuana or marijuana products are being cultivated, manufactured, processed, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for marijuana or marijuana products. Such warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this subtitle shall be as provided in this section.

B. Production of seized property. Whenever any article declared contraband under the provisions of this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a

3503 warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband
3504 article and any person in whose possession it was found. In those cases where no person is found in
3505 possession of such articles, the return shall so state and a copy of the warrant shall be posted on the
3506 door of the buildings or room where the articles were found, or if there is no door, then in any
3507 conspicuous place upon the premises.

3508 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
3509 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
3510 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
3511 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
3512 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
3513 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item
3514 destroyed, and the materials remaining after such destruction. The report shall include a statement that,
3515 from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the
3516 item was set up for use, or had been used in the unlawful cultivation, processing, or manufacture of
3517 marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

3518 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
3519 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
3520 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products
3521 or any other violation of this subtitle. The destruction shall be in the presence of at least one credible
3522 witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be
3523 made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for
3524 seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer
3525 and witness have no doubt whatever that the marijuana or marijuana products were intended for use in
3526 the unlawful cultivation, processing, or manufacture of marijuana or marijuana products or were
3527 intended for use in violation of this subtitle.

3528 C. Hearing and determination. Upon the return of the warrant as provided in this section, the court
3529 shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30
3530 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any
3531 part thereof, were used or in any manner kept, stored, or possessed in violation of this subtitle.

3532 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
3533 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall
3534 turn them over to the Board. Any person claiming an interest in any of the articles seized may appear
3535 at the hearing and file a written claim setting forth particularly the character and extent of his interest.
3536 The court shall certify the warrant and the articles seized along with any claim filed to the circuit court
3537 to hear and determine the validity of such claim.

3538 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
3539 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder
3540 shall not be a bar to any prosecution under any other provision of this subtitle.

3541 D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to
3542 the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper.
3543 The net proceeds from such sales shall be paid into the Literary Fund.

3544 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board
3545 in accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale
3546 would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
3547 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took
3548 place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given,
3549 and the date when given and shall be kept in the offices of the Board.

3550 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

3551 A. When any officer charged with the enforcement of the cannabis control laws of the
3552 Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally
3553 acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or
3554 on water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor
3555 car or a steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant
3556 and search such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana
3557 products or retail marijuana or retail marijuana products being illegally transported in amounts in
3558 excess of two and one-half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or
3559 72 ounces of liquid retail marijuana product, the officer shall seize the retail marijuana or retail
3560 marijuana product, seize and take possession of such conveyance or vehicle, and deliver them to the
3561 chief law-enforcement officer of the locality in which such seizure was made, taking his receipt therefor
3562 in duplicate.

3563 B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the
3564 attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

§ 4.1-1306. Contraband retail marijuana or retail marijuana products.

Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products within the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.

§ 4.1-1307. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-1308. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-1309. Previous convictions.

In any indictment, information, or warrant charging any person with a violation of any provision of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this subtitle.

§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.

In any prosecution for violations of this subtitle, where a sealed container is labeled as containing retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana content of a container, whether sealed or not.

§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.

No action to recover the price of any retail marijuana or retail marijuana products sold in contravention of this subtitle may be maintained.

CHAPTER 14.**CANNABIS AND REGULATED HEMP PRODUCT CONTROL, TESTING, AND ADVERTISING.****§ 4.1-1400. Board to establish regulations for marijuana and regulated hemp product testing.**

The Board shall establish a testing program for marijuana, marijuana products, and regulated hemp products. Except as otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another licensee, or any persons, prior to selling a regulated hemp product, to submit a representative sample of the retail marijuana, retail marijuana product, or regulated hemp product, not to exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana, retail marijuana product, or regulated hemp product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i)

3626 establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research
3627 practices, including regulations relating to testing practices, methods, and standards; quality control
3628 analysis; equipment certification and calibration; marijuana testing facility recordkeeping,
3629 documentation, and business practices; disposal of used, unused, and waste retail marijuana, retail
3630 marijuana products, and regulated hemp products; and reporting of test results; (iii) identifying the
3631 types of contaminants that are injurious to health for which retail marijuana, retail marijuana products,
3632 and regulated hemp products shall be tested under this subtitle; and (iv) establishing the maximum level
3633 of allowable contamination for each contaminant.

3634 **§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**
3635 **required destruction; random testing.**

3636 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
3637 or to another licensee under this subtitle and a person may not sell a regulated hemp product unless a
3638 representative sample of the retail marijuana, retail marijuana product, or regulated hemp product has
3639 been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that
3640 mandatory testing has demonstrated that (i) the retail marijuana, retail marijuana product, or regulated
3641 hemp product does not exceed the maximum level of allowable contamination for any contaminant that
3642 is injurious to health and for which testing is required and (ii) the labeling on the retail marijuana,
3643 retail marijuana product, or regulated hemp product is correct.

3644 B. Mandatory testing of retail marijuana, retail marijuana products, and regulated hemp products
3645 under this section shall include testing for:

- 3646 1. Residual solvents, poisons, and toxins;
- 3647 2. Harmful chemicals;
- 3648 3. Dangerous molds and mildew;
- 3649 4. Harmful microbes, including but not limited to *Escherichia coli* and *Salmonella*;
- 3650 5. Pesticides, fungicides, and insecticides; and
- 3651 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct
3652 labeling.

3653 Testing shall be performed on the final form in which the retail marijuana, retail marijuana product,
3654 or regulated hemp product will be consumed.

3655 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
3656 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of
3657 the marijuana testing facility, and the results of the mandatory test. A person who sells a regulated
3658 hemp product shall maintain a record of all mandatory testing that includes a description of the
3659 regulated hemp product that person sells, the identity of the marijuana testing facility, and the results of
3660 the mandatory test.

3661 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
3662 marijuana, retail marijuana product, or regulated hemp product exceeds the maximum level of allowable
3663 tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for
3664 which testing is required, the marijuana testing facility shall immediately quarantine, document, and
3665 properly destroy the retail marijuana, retail marijuana product, or regulated hemp product and within
3666 seven days of completing the test shall notify the Board of the test results.

3667 A marijuana testing facility is not required to notify the Board of the results of any test:

- 3668 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee or
3669 conducted on a regulated hemp product at the direction of any person pursuant to this section that
3670 demonstrates that the retail marijuana or retail marijuana product does not exceed the maximum level
3671 of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to
3672 health and for which testing is required;
- 3673 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee or
3674 conducted on a regulated hemp product at the direction of any person for research and development
3675 purposes only, so long as the licensee or person notifies the marijuana testing facility prior to the
3676 performance of the test that the testing is for research and development purposes only; or
- 3677 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
3678 not a licensee.

3679 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee
3680 retail marijuana or a retail marijuana product or a person may sell a regulated hemp product that the
3681 licensee or person has not submitted for testing in accordance with this subtitle and regulations adopted
3682 pursuant to this subtitle if the following conditions are met:

- 3683 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
3684 with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee or
3685 the regulated hemp product has previously undergone testing in accordance with this subtitle and
3686 regulations adopted pursuant to this subtitle at the direction of another person and that testing
3687 demonstrated that the retail marijuana, retail marijuana product, or regulated hemp product does not

exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. The mandatory testing process and the test results for the retail marijuana, retail marijuana product, or regulated hemp product are documented in accordance with the requirements of this subtitle and all applicable regulations adopted pursuant to this subtitle;

3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product to another licensee or to a consumer can be easily identified; and

4. The retail marijuana, retail marijuana product, or regulated hemp product has not undergone any further processing, manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail marijuana products and any person shall be required to destroy any batch of a regulated hemp product whose testing samples indicate noncompliance with the health and safety standards required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can bring the retail marijuana, retail marijuana products, or regulated hemp products into compliance with such required health and safety standards.

G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana products and a person shall comply with all requests for samples of regulated hemp products for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

§ 4.1-1402. Labeling and packaging requirements; prohibitions.

A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer or regulated hemp products to be sold or offered for sale by a person in accordance with the provisions of this subtitle shall be labeled with the following information:

1. Identification of the type of retail marijuana, retail marijuana product, or regulated hemp product and the date of cultivation, processing, and packaging;

2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated, processed, and offered for sale, as applicable;

3. A statement of the net weight of the retail marijuana, retail marijuana product, or regulated hemp product;

4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other cannabinoid amount in milligrams and percentage for the total package; and (iii) the potency of the THC and other cannabinoid content;

5. Information on gases, solvents, and chemicals used in marijuana extraction or the processing of a regulated hemp product, if applicable;

6. Instructions on usage, including information regarding the amount of retail marijuana, retail marijuana product, or regulated hemp product that constitutes a single serving;

7. For retail marijuana products and regulated hemp product, (i) a list of ingredients and possible allergens and (ii) a recommended use by date or expiration date;

8. For edible marijuana products and edible hemp products, a nutritional fact panel;

9. For retail marijuana and retail marijuana products, the following statement, prominently displayed in bold print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

10. For regulated hemp products, the following statement, prominently displayed in bold print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS TETRAHYDROCANNABINOL (THC). REGULATED HEMP PRODUCTS CONTAINING THC MAY ONLY BE SOLD TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF THC IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. THC SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

11. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail marijuana products;

3749 12. A stamp on the packaging of any regulated hemp product, issued pursuant to Board regulations,
3750 that certifies compliance with the provisions of this chapter; and

3751 13. Any other information required by Board regulations.

3752 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
3753 consumer in accordance with the provisions of this subtitle and regulated hemp products to be sold or
3754 offered for sale by a person in accordance with the provisions of this subtitle shall be packaged in the
3755 following manner:

3756 1. Retail marijuana, retail marijuana products, and regulated hemp products shall be prepackaged in
3757 child-resistant, tamper-evident, and resealable packaging that is opaque or shall be placed at the final
3758 point of sale to a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

3759 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
3760 component; and

3761 3. Packaging shall comply with any other requirements imposed by Board regulations.

3762 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
3763 consumer in accordance with the provisions of this subtitle shall not:

3764 1. Be labeled or packaged in violation of a federal trademark law or regulation;

3765 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of
3766 age;

3767 3. Be labeled or packaged in a manner that obscures identifying information on the label;

3768 4. Be labeled or packaged using a false or misleading label;

3769 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle,
3770 or fruit; and

3771 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by
3772 Board regulations.

3773 **§ 4.1-1403. Other health and safety requirements for edible marijuana products, edible hemp**
3774 **products, and other retail marijuana products deemed applicable by the Authority; health and safety**
3775 **regulations.**

3776 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
3777 retail marijuana products deemed applicable by the Authority to be sold or offered for sale by a
3778 licensee to a consumer and edible hemp products deemed applicable by the Authority to be sold or
3779 offered for sale by a person in accordance with this subtitle:

3780 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.8;

3781 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

3782 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within
3783 the product being homogeneous throughout the product or throughout each element of the product that
3784 has a cannabinoid content;

3785 4. Shall be processed and manufactured in a manner that results in the amount of marijuana
3786 concentrate or industrial hemp extract, as appropriate, within the product being homogeneous
3787 throughout the product or throughout each element of the product that contains marijuana concentrate
3788 or industrial hemp extract, as appropriate;

3789 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

3790 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol (THC) per serving of the
3791 product and shall not contain more than 100 milligrams of THC per package of the product, except for
3792 edible hemp products, which shall not exceed the maximum tetrahydrocannabinol level established for a
3793 regulated hemp product pursuant to § 4.1-606;

3794 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
3795 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
3796 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
3797 than 21 years of age; and

3798 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
3799 the trademarked product is used as a component of or ingredient in the edible marijuana product and
3800 the edible marijuana product is not advertised or described for sale as containing the trademarked
3801 product.

3802 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other
3803 health and safety regulations that it deems necessary for retail marijuana and retail marijuana products
3804 to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle or regulated
3805 hemp products to be sold or offered for sale by a person in accordance with this subtitle. Regulations
3806 adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to
3807 the cultivation of retail marijuana, the processing and manufacture of retail marijuana products, the
3808 processing of regulated hemp products, the packaging and labeling of retail marijuana and retail
3809 marijuana products sold by a licensee to a consumer, and the packaging and labeling of regulated hemp
3810 products sold by a person to any other person. Such regulations shall address:

1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail marijuana products by licensees;

2. Sanitary standards for marijuana establishments, including sanitary standards for the processing and manufacture of retail marijuana, retail marijuana products, and regulated hemp products; and

3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana stores.

§ 4.1-1404. Advertising and marketing restrictions.

A. As used in this section, unless the context requires a different meaning, "health-related statement" means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of retail marijuana or retail marijuana products and health benefits or effects on health.

B. No person shall advertise in or send any advertising matter into the Commonwealth about or concerning retail marijuana or retail marijuana products other than those that may be legally processed or manufactured in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary schools.

D. A licensee shall not engage in the use of pop-up digital advertisements but may list their establishment in public phone books and directories.

E. A licensee shall not display any retail marijuana or retail marijuana product pricing through any means of advertisement other than their establishment website, which shall be registered with the Authority, or an opt-in subscription-based service, provided that the licensee utilizes proper age verification techniques to confirm that the person attempting to access the website or sign up for a subscription-based service is 21 years of age or older.

F. Advertising or marketing used by or on behalf of a licensee:

1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a minimum, the licensee's license number and shall include the following statement: "For use by adults 21 years of age and older";

2. Shall not be misleading, deceptive, or false;

3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in any way;

4. Shall not imply that marijuana or marijuana products enhance athletic prowess; imply that any marijuana or marijuana product is government endorsed; make any reference to the intoxicating effects of marijuana or marijuana products; depict a person consuming marijuana or marijuana products; or depict any person younger than 21 years of age; and

5. Shall comply with any other provisions imposed by Board regulations.

G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For the purposes of this subsection, such method of age affirmation may include user confirmation, birth date disclosure, or any other similar registration method.

H. A licensee shall not (i) give away any amount of retail marijuana or retail marijuana products as part of a business promotion or other commercial activity or (ii) create any contest or sweepstakes that conditions entry on the purchase of retail marijuana, retail marijuana products, marijuana paraphernalia, or marijuana accessories.

I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

J. The provisions of this section shall not apply to noncommercial speech.

K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market and notify the public of the location of marijuana establishments.

§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor retail marijuana or retail marijuana products advertising shall be placed (i) on property zoned exclusively for agricultural or residential uses or on unzoned property or (ii) within 1,000 linear feet of (a) a public, private, or parochial school or an institution of higher education; (b) a public or private playground or similar recreational or child-centered facility; (c) a substance use disorder treatment facility; (d) a place of religious worship; or (e) a residential dwelling. Measurements pursuant to this section shall be taken from the nearest edge of the sign face upon which the

3872 advertisement is placed to the nearest edge of the closest building or structure located on the real
3873 property of the entity set forth above; however, if there is no building or structure, the measurement
3874 shall be taken from the nearest edge of the sign face upon which the advertisement is placed to the
3875 nearest property line.

3876 B. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from
3877 an entity set forth in subsection A but the circumstances change such that the advertisement would
3878 otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as
3879 displayed for the remainder of the term of any written advertising contract, but in no event more than
3880 one year from the date of the change in circumstances.

3881 C. Provided that such signs are in compliance with local ordinances, the distance and zoning
3882 restrictions contained in this section shall not apply to:

3883 1. Signs placed by licensees upon the property on which the licensed premises are located so long as
3884 such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous
3885 gas-discharge tubes that contain rarefied neon or other gases; or

3886 2. Directional signs placed by marijuana processing facility licensees or marijuana transporter
3887 licensees with advertising limited to trade names and brand names.

3888 D. The distance and zoning restrictions contained in this section shall not apply to any sign that is
3889 included in the Integrated Directional Sign Program administered by the Virginia Department of
3890 Transportation or its agents.

3891 E. A marijuana licensee shall not advertise at any sporting event or use any billboard advertisements
3892 in the Commonwealth.

3893 F. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with
3894 the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and
3895 regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and
3896 regulations. Further, any outdoor retail marijuana products directional sign located or to be located on
3897 highway rights of way shall also be governed by and comply with the Integrated Directional Sign
3898 Program administered by the Virginia Department of Transportation or its agents and federal laws and
3899 regulations.

3900 **§ 4.1-1406. Regulated hemp products; violations; penalties.**

3901 For any violation of a requirement of this chapter or Chapter 6 of this subtitle, or of any regulation
3902 promulgated thereunder, pertaining to a regulated hemp product, the Authority may assess a penalty not
3903 to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or
3904 subsequent violation. All penalties collected by the Authority pursuant to this section shall be deposited
3905 in the state treasury.

3906 **§ 4.1-1407. Hemp product not retail marijuana or retail marijuana product.**

3907 A regulated hemp product that is tested, labeled, packaged, and advertised in accordance with the
3908 provisions pertaining to a regulated hemp product in this chapter or Chapter 6 of this subtitle, or in
3909 any regulation promulgated thereunder, shall not be subject to the requirements in this subtitle or
3910 regulations adopted thereunder that pertain only to retail marijuana or retail marijuana products.

3911 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
3912 **operation.**

3913 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above or upon the lands
3914 or waters of ~~this the~~ Commonwealth, while under the influence of intoxicating liquor or of any narcotic
3915 or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a state
3916 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury
3917 trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or
3918 both such fine and imprisonment.

3919 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
3920 lands or waters of ~~this the~~ Commonwealth carelessly or heedlessly in willful or wanton disregard of the
3921 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
3922 any person or property, ~~shall be~~ is guilty of a misdemeanor.

3923 **§ 6.2-108. Financial services for licensed marijuana establishments.**

3924 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
3925 provided in § 4.1-600.

3926 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
3927 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant
3928 to any state law or regulation solely for providing such a financial service or for further investing any
3929 income derived from such a financial service.

3930 C. Nothing in this section shall require a bank or credit union to provide financial services to a
3931 licensed marijuana establishment.

3932 **§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**
3933 **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 special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators 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 any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

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

"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, or any full-time or part-time employee of a private police department, 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 Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of

§ 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"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 or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, 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.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) 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 special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators 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 any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

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

"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, or any full-time or part-time employee of a private police department, 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 Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous

property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"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 or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, 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.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-400. Title of chapter; definitions.

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

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

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

"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town,

including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team member; ~~any~~ a conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ *includes* the natural or adopted child or children of a deceased person or disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

4241 "Line of duty" means any action the deceased or disabled person was obligated or authorized to
4242 perform by rule, regulation, condition of employment or service, or law.

4243 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to
4244 § 9.1-401.

4245 "Nonparticipating employer" means any employer that is a political subdivision of the
4246 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not
4247 participate in the Fund.

4248 "Participating employer" means any employer that is a state agency or is a political subdivision of
4249 the Commonwealth that did not make an election to become a nonparticipating employer.

4250 "VRS" means the Virginia Retirement System.

4251 **§ 9.1-500. Definitions.**

4252 As used in this chapter, unless the context requires a different meaning:

4253 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine
4254 Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia
4255 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of
4256 Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the
4257 campus police department of any public institution of higher education of the Commonwealth employing
4258 the law-enforcement officer.

4259 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of
4260 the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and
4261 (ii) a nonprobationary officer of one of the following agencies:

4262 a. 1. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
4263 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic
4264 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor
4265 Vehicles, or the Department of Conservation and Recreation;

4266 b. 2. The police department, bureau or force of any political subdivision or the campus police
4267 department of any public institution of higher education of the Commonwealth where such department,
4268 bureau or force has three or more law-enforcement officers; or

4269 c. 3. Any conservation police officer as defined in § 9.1-101.

4270 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's
4271 department of any city or county.

4272 **§ 9.1-801. Public safety officer defined.**

4273 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
4274 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
4275 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail
4276 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
4277 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
4278 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part
4279 of the official safety program of such county, city, or town; an arson investigator; a member of the
4280 Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia
4281 National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the
4282 United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority *or the*
4283 *Virginia Cannabis Control Authority*; ~~any~~ a police agent appointed under the provisions of § 56-353;
4284 ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or
4285 town or from the Commonwealth appointed pursuant to § 29.1-200; ~~any~~ a commissioned forest warden
4286 appointed pursuant to § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources
4287 Commission granted the power to arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency
4288 Management hazardous materials officer; ~~any~~ a nonfirefighter regional hazardous materials emergency
4289 response team member; ~~any~~ an investigator who is a full-time sworn member of the security division of
4290 the Virginia Lottery; ~~any~~ a full-time sworn member of the enforcement division of the Department of
4291 Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling
4292 duties pursuant to § 46.2-217; ~~any~~ a campus police officer appointed under the provisions of Article 3
4293 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and ~~any~~ a conservation officer of the Department of
4294 Conservation and Recreation commissioned pursuant to § 10.1-115.

4295 **§ 9.1-1101. Powers and duties of the Department.**

4296 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
4297 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
4298 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police,
4299 sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire
4300 department; the head of any private police department that has been designated as a criminal justice
4301 agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in
4302 any criminal matter. The Department shall provide such services to any federal investigatory agency

within available resources.

B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; and

4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.*

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter including, but not limited to, contracts with the United States, units of general local government or combinations thereof in Virginia or other states, and with agencies and departments of the Commonwealth; and

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

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

§ 15.2-2820. Definitions.

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

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

"Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes, including club or member sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting.

"Private function" means any gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which membership or specific invitation is a prerequisite to entry.

"Private work place" means any office or work area that is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

4364 "Recreational facility" means any enclosed, indoor area used by the general public and used as a
4365 stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

4366 "Restaurant" means any place where food is prepared for service to the public on or off the premises,
4367 or any place where food is served. Examples of such places include but are not limited to lunchrooms,
4368 short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of
4369 public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of
4370 public and private schools and colleges, and kitchen areas of local correctional facilities subject to
4371 standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned
4372 foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to
4373 the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of
4374 service where such service and consumption occur in a private residence or in any location that is not a
4375 public place. "Restaurant" shall include any bar or lounge area that is part of such restaurant.

4376 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any
4377 kind, *including marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling
4378 of smoke from a pipe, cigar, or cigarette of any kind, *including marijuana*.

4379 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or
4380 designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance,
4381 lecture, or other similar performance.

4382 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**
4383 **prepayment of local ordinances.**

4384 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
4385 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the
4386 traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be
4387 accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and
4388 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person
4389 charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his
4390 fines and costs without court appearance whether or not he was involved in an accident. The prepayable
4391 fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of
4392 posted speed limits, as authorized in § 46.2-878.3.

4393 Such infractions shall not include:

- 4394 1. Indictable offenses;
- 4395 2. [Repealed.]
- 4396 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a
4397 narcotic or habit-producing drug, or permitting another person, who is under the influence of
4398 intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned
4399 by the defendant or in his custody or control;
- 4400 4. Reckless driving;
- 4401 5. Leaving the scene of an accident;
- 4402 6. Driving while under suspension or revocation of driving privileges;
- 4403 7. Driving without being licensed to drive.
- 4404 8. [Repealed.]

4405 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
4406 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a
4407 waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense
4408 charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand
4409 trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court,
4410 and that the record of conviction will be sent to the Commissioner of the Department of Motor
4411 Vehicles.

4412 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
4413 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties
4414 to be imposed, designating each infraction specifically. The schedule, which may from time to time be
4415 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
4416 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
4417 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
4418 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
4419 with the provisions of this Code or any rules or regulations promulgated thereunder.

4420 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law
4421 and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B
4422 if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
4423 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
4424 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of
4425 such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the

local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner information on the possible availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of Medical Assistance Services.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated

4487 in need of supervision on more than two occasions for failure to comply with compulsory school
4488 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
4489 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or
4490 parents, guardian, or other person standing in loco parentis must agree, in writing, for the development
4491 of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,
4492 guardian, or other person standing in loco parentis participate in such programs, cooperate in such
4493 treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's
4494 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer
4495 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
4496 interagency interdisciplinary team approach. The team may include qualified personnel who are
4497 reasonably available from the appropriate department of social services, community services board, local
4498 school division, court service unit, and other appropriate and available public and private agencies and
4499 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the
4500 deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then
4501 the intake officer shall file the petition.

4502 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child
4503 is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan
4504 for the juvenile, which may include restitution, the performance of community service, or on a
4505 complaint alleging that a child has committed a delinquent act other than an act that would be a felony
4506 or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
4507 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
4508 community resources and the circumstances which resulted in the complaint, (B) create an official record
4509 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise
4510 the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the
4511 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent
4512 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241,
4513 or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11,
4514 that any subsequent report from the youth justice diversion program alleging that the juvenile failed to
4515 comply with the youth justice diversion program's sentence within 180 days of the sentencing date, may
4516 result in the filing of a petition with the court.

4517 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
4518 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
4519 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
4520 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
4521 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a
4522 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of
4523 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,
4524 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such
4525 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to
4526 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer
4527 believes that probable cause does not exist, or that the authorization of a petition will not be in the best
4528 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other
4529 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
4530 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written
4531 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders
4532 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant
4533 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the
4534 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to
4535 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

4536 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
4537 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be
4538 in need of supervision have utilized or attempted to utilize treatment and services available in the
4539 community and have exhausted all appropriate nonjudicial remedies which are available to them. When
4540 the intake officer determines that the parties have not attempted to utilize available treatment or services
4541 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the
4542 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,
4543 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake
4544 officer determines that the parties have made a reasonable effort to utilize available community
4545 treatment or services may he permit the petition to be filed.

4546 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
4547 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
4548 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of

the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall be filed within 10 days of the issuance of the written notification. The written notification shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a magistrate for a warrant.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ *Chapter 11* (§ 18.2-247 ~~4.1-1100 et seq.) of Chapter 7 of Title 18.2~~ *4.1*;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1;

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § ~~4.1-1104~~, 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody

of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or 4.1-1104 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1104 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a violation of § 4.1-1104*, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 *or a violation of § 4.1-1105*; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the

offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation

designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 17.1-276. Fee allowed for providing secure remote access to land records.

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as defined in § 17.1-295.

The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Rail and Public Transportation, and the State Corporation Commission shall be exempt from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Rail and Public Transportation, and the State Corporation Commission from paying any access or subscription fee.

B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency. Any such agreement between a state agency or employee thereof acting in the employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency or employee thereof acting in the employee's official capacity to indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is required to monitor its employees' activity under such agreement to ensure compliance with its terms.

C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

D. Nothing herein shall be construed to require the use by the general public of the secure remote access to land records made available by the clerk, and such records may continue to be accessed in

person in the clerk's office.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, *or* 18.2-248, ~~or 18.2-248.1~~; (v) ~~18.2-248.1~~ *or* a conspiracy to commit a felony violation of § 4.1-1101, *or* 18.2-248, ~~or 18.2-248.1~~; (vi) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-57. Assault and battery; penalty.

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, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months.

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, gender, disability, gender identity, sexual orientation, 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.

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~~ *an* 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 anywhere in the Commonwealth, 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* Any person *who* commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school ~~and who~~ *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* 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 in a hospital or in an emergency room on the premises of any clinic or other

4856 facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such
 4857 person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall
 4858 be a mandatory minimum term of confinement.

4859 F. As used in this section:

4860 "Disability" means a physical or mental impairment that substantially limits one or more of a
 4861 person's major life activities.

4862 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of
 4863 Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

4864 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge
 4865 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore
 4866 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'
 4867 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute
 4868 judge of such district court.

4869 "Law-enforcement officer" means ~~any~~ a full-time or part-time employee of a police department or
 4870 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof
 4871 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or
 4872 highway laws of the Commonwealth, ~~any~~ a conservation officer of the Department of Conservation and
 4873 Recreation commissioned pursuant to § 10.1-115, ~~any~~ a special agent of the Virginia Alcoholic Beverage
 4874 Control Authority ~~or the Virginia Cannabis Control Authority~~, a conservation police ~~officers~~ officer
 4875 appointed pursuant to § 29.1-200, a full-time sworn ~~members~~ member of the enforcement division of the
 4876 Department of Motor Vehicles appointed pursuant to § 46.2-217, ~~and any~~ an employee with internal
 4877 investigations authority designated by the Department of Corrections pursuant to subdivision 11 of
 4878 § 53.1-10, ~~and such officer also includes a jail officers officer in a local and or regional correctional~~
 4879 ~~facilities facility~~, all a deputy ~~sheriffs~~ sheriff, whether assigned to law-enforcement duties, court services
 4880 or local jail responsibilities, an auxiliary police ~~officers~~ officer appointed or provided for pursuant to
 4881 §§ 15.2-1731 and 15.2-1733, an auxiliary deputy ~~sheriffs~~ sheriff appointed pursuant to § 15.2-1603, a
 4882 police ~~officers~~ officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and a
 4883 fire ~~marshals~~ marshal appointed pursuant to § 27-30 when such fire ~~marshals~~ have ~~marshal~~ has police
 4884 powers as set out in §§ 27-34.2 and 27-34.2:1.

4885 "School security officer" means the same as that term is defined in § 9.1-101.

4886 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any
 4887 school security officer or full-time or part-time employee of any public or private elementary or
 4888 secondary school while acting in the course and scope of his official capacity, any of the following: (i)
 4889 incidental, minor or reasonable physical contact or other actions designed to maintain order and control;
 4890 (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a
 4891 disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and
 4892 necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and
 4893 necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain
 4894 possession of weapons or other dangerous objects or controlled substances or associated paraphernalia
 4895 that are upon the person of the student or within his control.

4896 In determining whether a person was acting within the exceptions provided in this subsection, due
 4897 deference shall be given to reasonable judgments that were made by a school security officer or
 4898 full-time or part-time employee of any public or private elementary or secondary school at the time of
 4899 the event.

4900 **§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V, and**
 4901 **VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.**

4902 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in
 4903 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act
 4904 (§ 54.1-3400 et seq.).

4905 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
 4906 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not
 4907 a controlled substance subject to abuse, and:

4908 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging, or
 4909 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
 4910 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
 4911 into commerce prior to the initial introduction into commerce of the controlled substance which it is
 4912 alleged to imitate; or

4913 2. Which by express or implied representations purports to act like a controlled substance as a
 4914 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
 4915 use in that particular formulation for any purpose other than for such stimulant or depressant effect,
 4916 unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

4917 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an

"imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; or (iii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

F. The Department of Forensic Science shall determine the proper methods for detecting the concentration of delta-9-tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of delta-9-tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet, or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet, or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than

4979 \$500,000.

4980 Any person who manufactures, sells, gives, distributes, or possesses with the intent to manufacture,
4981 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1
4982 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term
4983 of imprisonment to be served consecutively with any other sentence:

4984 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

4985 2. 500 grams or more of a mixture or substance containing a detectable amount of:

4986 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
4987 derivatives of ecgonine or their salts have been removed;

4988 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4989 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4990 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
4991 referred to in subdivisions 2a through 2e a, b, and c;

4992 3. 250 grams or more of a mixture or substance described in subdivisions 2a 2 a through 2d 2 d that
4993 contain cocaine base; or

4994 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
4995 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
4996 or salts of its isomers.

4997 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall
4998 not be applicable if the court finds that:

4999 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

5000 b. The person did not use violence or credible threats of violence or possess a firearm or other
5001 dangerous weapon in connection with the offense or induce another participant in the offense to do so;

5002 c. The offense did not result in death or serious bodily injury to any person;

5003 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was
5004 not engaged in a continuing criminal enterprise as defined in subsection I; and

5005 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
5006 Commonwealth all information and evidence the person has concerning the offense or offenses that were
5007 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
5008 relevant or useful other information to provide or that the Commonwealth already is aware of the
5009 information shall not preclude a determination by the court that the defendant has complied with this
5010 requirement.

5011 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its
5012 salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
5013 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
5014 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
5015 second conviction of such a violation, any such person may, in the discretion of the court or jury
5016 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years,
5017 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense
5018 under this subsection and it is alleged in the warrant, indictment, or information that he has been
5019 previously convicted of two or more such offenses or of substantially similar offenses in any other
5020 jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior
5021 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he
5022 shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which
5023 shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence
5024 and he shall be fined not more than \$500,000.

5025 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be
5026 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
5027 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
5028 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
5029 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
5030 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
5031 property owned in whole or in part by the person convicted, the court shall order the person to pay to
5032 the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual
5033 expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated
5034 expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of
5035 certifying that any building that is cleaned up or repaired pursuant to this section is safe for human
5036 occupancy according to the guidelines established pursuant to § 32.1-11.7.

5037 D. If such person proves that he gave, distributed, or possessed with intent to give or distribute a
5038 controlled substance classified in Schedule I or II only as an accommodation to another individual who
5039 is not an inmate in a community correctional facility, local correctional facility, or state correctional
5040 facility as defined in § 53.1-1 or in the custody of an employee thereof; and not with intent to profit

thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be is guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall be is guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV shall be is guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which that imitates a controlled substance classified in Schedule V or Schedule VI, shall be is guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which that imitates a controlled substance classified in Schedule I, II, III, or IV shall be is guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation which that contains any quantity of any of the substances referred to in subdivisions a through, b, and c;

3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which that contains cocaine base; or

4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or

5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense; and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

5102 H1. Any person who was the principal or one of several principal administrators, organizers or
5103 leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at
5104 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
5105 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or
5106 the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
5107 enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give or
5108 distribute the following during any 12-month period of its existence:

5109 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
5110 detectable amount of heroin;

5111 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
5112 amount of:

5113 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
5114 derivatives of ecgonine or their salts have been removed;

5115 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

5116 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

5117 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances
5118 referred to in subdivisions a ~~through, b, and c~~;

5119 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
5120 subdivision 2 ~~which that~~ contains cocaine base; *or*

5121 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
5122 ~~detectable amount of marijuana; or~~

5123 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its
5124 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
5125 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

5126 A conviction under this section shall be punishable by a fine of not more than \$1 million and
5127 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

5128 H2. Any person who was the principal or one of several principal administrators, organizers or
5129 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross
5130 receipts during any 12-month period of its existence from the manufacture, importation, or distribution
5131 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of
5132 isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give,
5133 distribute or possess with the intent to manufacture, sell, give or distribute the following during any
5134 12-month period of its existence:

5135 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

5136 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

5137 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
5138 derivatives of ecgonine or their salts have been removed;

5139 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

5140 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

5141 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances
5142 referred to in subdivisions a ~~through, b, and c~~;

5143 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains
5144 cocaine base; *or*

5145 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

5146 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
5147 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
5148 isomers, or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1
5149 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
5150 punishment shall be made to run consecutively with any other sentence. However, the court may impose
5151 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
5152 with law-enforcement authorities.

5153 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
5154 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
5155 is a part of a continuing series of violations of this section which are undertaken by such person in
5156 concert with five or more other persons with respect to whom such person occupies a position of
5157 organizer, a supervisory position, or any other position of management, and from which such person
5158 obtains substantial income or resources or (iii) such violation is committed, with respect to
5159 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the
5160 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

5161 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any
5162 two or more different substances listed below with the intent to manufacture methamphetamine,
5163 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,

ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.

Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person to transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not to exceed ~~\$1,000,000~~ *\$1 million*. A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction

for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention in accordance with this subdivision;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or she the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, or to a person who renders emergency care or assistance to an individual experiencing an overdose while another person seeks or obtains emergency medical attention during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish protection from arrest or prosecution for any individual or offense other than those listed in subsection B.

E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution under this section.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories; Department of Agriculture and Consumer Services employees.

A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,

a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

B. No employee of the Department of Agriculture and Consumer Services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp when possession of industrial hemp is necessary in the performance of his duties.

§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and treatment or education.

The trial judge or court trying the case of any person found guilty of a criminal violation of any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances and like substances shall condition any suspended sentence by first requiring such person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the supervising probation agency or by personnel of any program or agency approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services, by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

§ 18.2-254. Commitment of convicted person for treatment for substance abuse.

A. Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement

5348 from the director of the treatment facility to the effect that the confined person has successfully
 5349 responded to treatment, the court may release such confined person prior to the termination of the period
 5350 of time for which such person was confined and may suspend the remainder of the term upon such
 5351 conditions as the court may prescribe.

5352 C. The court trying a case in which commission of the criminal offense was related to the
 5353 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
 5354 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
 5355 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
 5356 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
 5357 Developmental Services, if space is available in such facility, for a period of time not in excess of the
 5358 maximum term of imprisonment specified as the penalty for conviction. Confinement under such
 5359 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
 5360 committed may be convicted of escape if he leaves the place of commitment without authority. The
 5361 court may revoke such commitment at any time and transfer the person to an appropriate state or local
 5362 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
 5363 to the effect that the confined person has successfully responded to treatment, the court may release such
 5364 confined person prior to the termination of the period of time for which such person was confined and
 5365 may suspend the remainder of the term upon such conditions as the court may prescribe.

5366 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

5367 A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it
 5368 shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 5369 distribute any drug classified in Schedule I, II, III, or IV of marijuana to any person under 18 years of
 5370 age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
 5371 distribution of any drug classified in Schedule I, II, III, or IV of marijuana. Any person violating this
 5372 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than
 5373 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
 5374 conviction under this section involving a Schedule I or II controlled substance of one ounce or more of
 5375 marijuana shall be a mandatory minimum sentence. Two years of the sentence imposed for a conviction
 5376 under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.

5377 B. It shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally
 5378 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
 5379 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any
 5380 imitation controlled substance. Any person violating this provision shall be is guilty of a Class 6 felony.

5381 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 5382 **administering marijuana or controlled substances to minors; penalty.**

5383 It shall be is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
 5384 to a minor any book, pamphlet, periodical, or other printed matter which that he knows advertises for
 5385 sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
 5386 administering, preparing, or growing marijuana or a controlled substance.

5387 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
 5388 **penalty.**

5389 A. It shall be is unlawful for any person to manufacture, sell or distribute or possess with intent to
 5390 sell, give or distribute any controlled substance; or imitation controlled substance; or marijuana while:

5391 1. Upon the property, including buildings and grounds, of any public or private elementary or
 5392 secondary school, any institution of higher education, or any clearly marked licensed child day center as
 5393 defined in § 22.1-289.02;

5394 2. Upon public property or any property open to public use within 1,000 feet of the property
 5395 described in subdivision 1;

5396 3. On any school bus as defined in § 46.2-100;

5397 4. Upon a designated school bus stop, or upon either public property or any property open to public
 5398 use which is within 1,000 feet of such school bus stop, during the time when school children are
 5399 waiting to be picked up and transported to or are being dropped off from school or a school-sponsored
 5400 activity;

5401 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 5402 recreation or community center facility or any public library; or

5403 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
 5404 property open to public use within 1,000 feet of such an institution facility. It is a violation of the
 5405 provisions of this section if the person possessed the controlled substance; or imitation controlled
 5406 substance; or marijuana on the property described in subdivisions 1 through 6, regardless of where the
 5407 person intended to sell, give, or distribute the controlled substance; or imitation controlled substance; or
 5408 marijuana. Nothing in this section shall prohibit the authorized distribution of controlled substances.

5409 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the

provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

§ 18.2-258. Certain premises deemed common nuisance; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps, or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

§ 18.2-258.02. Maintaining a fortified drug house; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment or building, or structure of any kind ~~which~~ *that* is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in ~~or~~, omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34~~ *the Drug Control Act* (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to another person.

D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other authorized person.

E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth, or of a political subdivision of this Commonwealth, acting in the course of their employment, who obtain such drugs for investigative, research, or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research, or analytical purposes and who are acting in the course of their employment, provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act, and provided further, that such pharmaceutical manufacturer, its agents, and duly authorized representatives file with the Board such information as the Board may deem appropriate.

5471 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein
 5472 ~~shall be~~ is guilty of a Class 6 felony.

5473 Whenever any person who has not previously been convicted of any offense under this article or
 5474 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
 5475 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
 5476 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
 5477 guilty to the court for violating this section, upon such plea if the facts found by the court would justify
 5478 a finding of guilt, the court may place him on probation upon terms and conditions.

5479 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
 5480 and/or education program, if available, such as, in the opinion of the court, may be best suited to the
 5481 needs of the accused. This program may be located in the judicial circuit in which the charge is brought
 5482 or in any other judicial circuit as the court may provide. The services shall be provided by a program
 5483 certified or licensed by the Department of Behavioral Health and Developmental Services. The court
 5484 shall require the person entering such program under the provisions of this section to pay all or part of
 5485 the costs of the program, including the costs of the screening, evaluation, testing and education, based
 5486 upon the person's ability to pay unless the person is determined by the court to be indigent.

5487 As a condition of supervised probation, the court shall require the accused to remain drug free during
 5488 the period of probation and submit to such tests during that period as may be necessary and appropriate
 5489 to determine if the accused is drug free. Such testing may be conducted by the personnel of any
 5490 screening, evaluation, and education program to which the person is referred or by the supervising
 5491 agency.

5492 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report
 5493 to the original arresting law-enforcement agency to submit to fingerprinting.

5494 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
 5495 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
 5496 shall find the defendant guilty of a Class 1 misdemeanor.

5497 **§ 18.2-265.1. Definition.**

5498 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of
 5499 any kind which are either designed for use or which are intended by the person charged with violating
 5500 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
 5501 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
 5502 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
 5503 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

5504 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
 5505 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a
 5506 controlled substance can be derived;

5507 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
 5508 processing, or preparing ~~marijuana~~ or controlled substances;

5509 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
 5510 or any species of plant ~~which~~ that is a controlled substance;

5511 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
 5512 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
 5513 determine whether a controlled substance contains fentanyl or a fentanyl analog;

5514 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 5515 controlled substances;

5516 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
 5517 designed for use in cutting controlled substances;

5518 7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from,
 5519 or in otherwise cleaning or refining, ~~marijuana~~;

5520 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
 5521 compounding controlled substances;

5522 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in
 5523 packaging small quantities of ~~marijuana~~ or controlled substances;

5524 10. 9. Containers and other objects intended for use or designed for use in storing or concealing
 5525 ~~marijuana~~ or controlled substances;

5526 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
 5527 parenterally injecting controlled substances into the human body;

5528 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
 5529 ~~marijuana~~, cocaine, hashish, or hashish oil into the human body, such as:

5530 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
 5531 screens, hashish heads, or punctured metal bowls;

5532 b. Water pipes;

- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers.

§ 18.2-265.2. Evidence to be considered in cases under this article.

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

1. Constitutionally admissible statements by the accused concerning the use of the object;
2. The proximity of the object to marijuana or controlled substances, which proximity is actually known to the accused;
3. Instructions, oral or written, provided with the object concerning its use;
4. Descriptive materials accompanying the object which that explain or depict its use;
5. National and local advertising within the actual knowledge of the accused concerning its use;
6. The manner in which the object is displayed for sale;
7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;
9. The existence and scope of legitimate uses for the object in the community;
10. Expert testimony concerning its use or the purpose for which it was designed; and
11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.

A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body marijuana or a controlled substance, shall be is guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug paraphernalia to a minor who is at least three years junior to the accused in age shall be is guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor shall be is guilty of a Class 1 misdemeanor.

§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.

Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation of § 18.2-248 or subdivision (a) 2 or 3 of § 18.2-248.1, has in his possession a firearm or knife and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile shall be is guilty of a Class 4 felony.

§ 18.2-308.03. Fees for concealed handgun permits.

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment

5594 shall be required until the application is received by the court as a complete application.

5595 B. No fee shall be charged for the issuance of such permit to a person who has retired from service
5596 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage
5597 Control Authority *or the Virginia Cannabis Control Authority* or as a law-enforcement officer with the
5598 Department of State Police, the Department of Wildlife Resources, or a sheriff or police department,
5599 bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service
5600 or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of
5601 Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement
5602 Administration, United States Citizenship and Immigration Services, U.S. Customs and Border
5603 Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal
5604 Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a
5605 law-enforcement officer with any police or sheriff's department within the United States, the District of
5606 Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a
5607 law-enforcement officer with any combination of the agencies listed in clauses (ii) ~~through~~, (iii), and
5608 (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer
5609 of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as
5610 a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation
5611 and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

5612 **§ 18.2-308.012. Prohibited conduct.**

5613 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
5614 *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
5615 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
5616 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation
5617 of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
5618 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
5619 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
5620 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
5621 apply for a concealed handgun permit for a period of five years.

5622 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
5623 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises
5624 consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1
5625 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun
5626 onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2
5627 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local
5628 law-enforcement officer.

5629 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

5630 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

5631 1. Any State Police officer retired from the Department of State Police, any officer retired from the
5632 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
5633 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
5634 retired from the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority,
5635 *or the Virginia Cannabis Control Authority*, any employee with internal investigations authority
5636 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the
5637 Department of Corrections, any conservation police officer retired from the Department of Wildlife
5638 Resources, any conservation officer retired from the Department of Conservation and Recreation, any
5639 Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine
5640 Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of
5641 Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement
5642 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired
5643 investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for
5644 cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such
5645 law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years
5646 of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a
5647 service-related injury, provided such officer carries with him written proof of consultation with and
5648 favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer
5649 of the last such agency from which the officer retired or the agency that employs the officer or, in the
5650 case of special agents, issued by the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage
5651 Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and
5652 favorable review shall be forwarded by the chief, Commission, or Board to the Department of State
5653 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
5654 not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the
5655 requirements of this section. An officer set forth in clause (iv) who receives written proof of

consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

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

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

§ 18.2-308.4. Possession of firearms while in possession of certain substances.

A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~ to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person under 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons under 21 years of age.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less younger~~ *younger* than 21 years of age, knowing or having reason to believe that such person is ~~less younger~~ *younger* than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking 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 such products by persons ~~under younger than~~ *younger than* 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons ~~under younger than~~ *younger than* 21 years of age. An establishment that prohibits the presence of persons ~~under younger than~~ *younger than* 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person ~~less younger~~ *younger* than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person ~~less younger~~ *younger* than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. 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, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking 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 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine

vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

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

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

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

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person ~~under~~ *younger than* 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

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

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

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

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21

5840 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

5841 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon)
 5842 or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as
 5843 a bidi or beedie.

5844 "Hemp product *intended for smoking*" means the same as that term is defined in § 3-2-4112 4.1-600.

5845 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a
 5846 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,
 5847 regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form.
 5848 "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic
 5849 pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other
 5850 form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,
 5851 electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product
 5852 regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and
 5853 Cosmetic Act.

5854 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless
 5855 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor
 5856 product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21
 5857 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

5858 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for
 5859 smoking in a manner similar to a cigarette or cigar.

5860 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
 5861 **penalties.**

5862 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
 5863 for the Commonwealth, witness, ~~any~~ law-enforcement officer, or animal control officer employed
 5864 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
 5865 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the
 5866 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to
 5867 § 3.2-6555, he is guilty of a Class 1 misdemeanor.

5868 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 5869 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~
 5870 law-enforcement officer, or ~~an~~ animal control officer employed pursuant to § 3.2-6555 lawfully engaged
 5871 in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a
 5872 Class 1 misdemeanor.

5873 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
 5874 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement
 5875 officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of
 5876 justice in any court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3),~~
 5877 ~~(b) or (c) of § 18.2-248.1, or § 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to~~
 5878 violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

5879 D. Any person who knowingly and willfully makes any materially false statement or representation
 5880 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
 5881 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

5882 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
 5883 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of
 5884 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a
 5885 law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
 5886 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
 5887 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives
 5888 such communication knows or should know that he is not free to leave.

5889 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

5890 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,
 5891 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the
 5892 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
 5893 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled
 5894 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 ~~or~~
 5895 ~~marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or
 5896 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,
 5897 ~~ammunitions~~ *ammunition*, or explosives of any nature is guilty of a Class 3 felony.

5898 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

5899 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
 5900 **authorizing interception of communications.**

5901 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in

writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

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

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

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
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. Conservation officers appointed pursuant to § 10.1-115;
8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
11. Members of the Division of Capitol Police.

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

§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.

Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81, persons for crimes involving:

- (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1;
- and
- (d) 4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security of the population of a correctional institution.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the employing division as soon as practicable. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any public school division in this Commonwealth for:

- 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
- 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (§ 18.2-247

4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in §§ 4.1-600 and 18.2-247.

B. In any trial for a violation of § 4.1-1105.1 4.1-1104 or 4.1-1105, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § 4.1-1105.1 4.1-1104 or 4.1-1105, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 9.1-1101 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or

6086 distribution of marijuana or possession with intent to distribute marijuana in violation of subdivisions
6087 (a)(2), (a)(3) and (e) of ~~§ 18.2-248.1~~ § 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117
6088 or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a
6089 controlled substance in violation of § 18.2-248 or for marijuana in violation of ~~§ 18.2-248.1~~ 4.1-1103 or
6090 for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or
6091 other property, real or personal, traceable to such an exchange, together with any interest or profits
6092 derived from the investment of such money or other property. Under the provisions of clause (i), real
6093 property shall not be subject to lawful seizure unless the minimum prescribed punishment for the
6094 violation is a term of not less than five years.

6095 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
6096 Chapter 22.1 (§ 19.2-386.1 et seq.).

6097 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

6098 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
6099 possession of which is not established or the title to which cannot be ascertained, which have come into
6100 the custody of a peace officer or have been seized in connection with violations of *Chapter 11*
6101 (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and
6102 disposed of as follows:

6103 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
6104 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture
6105 of any such substance or paraphernalia to the Department of Forensic Science, the Department of State
6106 Police, or to such police department or sheriff's office for research and training purposes and for
6107 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
6108 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

6109 2. In the event no application is made under subdivision 1, the court shall order the destruction of all
6110 such substances or paraphernalia, which order shall state the existence and nature of the substance or
6111 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
6112 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
6113 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
6114 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need
6115 for the property and an ability to put the property to a lawful and publicly beneficial use. A return under
6116 oath, reporting the time, place and manner of destruction shall be made to the court by the officer to
6117 whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any
6118 criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter,
6119 be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is
6120 given or otherwise comes into possession of any such substances or paraphernalia that are not evidence
6121 in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may,
6122 with the written consent of the appropriate attorney for the Commonwealth, order destruction of same;
6123 provided that a statement under oath, reporting a description of the substances and paraphernalia
6124 destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer
6125 by the officer to whom the order is directed.

6126 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*
6127 (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as
6128 provided by this section until all rights of appeal have been exhausted, except as provided in
6129 § 19.2-386.24.

6130 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
6131 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
6132 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
6133 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall
6134 not result in the requesting agency's exceeding the limits allowed by this subsection.

6135 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
6136 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
6137 inventory of such substance on a monthly basis, which shall include a description and weight of the
6138 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for
6139 research and training purposes. A written report outlining the details of the inventory shall be made to
6140 the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and
6141 the agency shall detail the substances that were used for research and training pursuant to a court order
6142 in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court
6143 along with a statement prepared under oath, reporting a description of the substance destroyed, and the
6144 time, place, and manner of destruction.

6145 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

6146 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection
6147 with any prosecution or investigation under *Chapter 11* (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7

(§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly selected from the seized substance for representative purposes as evidence and destroy the remainder of the seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to be notified. In addition to the substance retained for representative purposes as evidence, all photographs and records made under this section and properly identified shall be admissible in any court proceeding for any purposes for which the seized substance itself would have been admissible.

§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled substances, etc.

Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or *Chapter 7* (§ 18.2-247 et seq.) of Title 18.2. The court in its order may make provision for ensuring integrity of these items until further order of the court.

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

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that 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 for the purposes of the administration of criminal justice;

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

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

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

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

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

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a

6209 conviction record would be compatible with the nature of the employment, permit, or license under
6210 consideration;

6211 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
6212 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
6213 position of employment whenever, in the interest of public welfare or safety and as authorized in the
6214 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
6215 with a conviction record would be compatible with the nature of the employment under consideration;

6216 8. Public or private agencies when authorized or required by federal or state law or interstate
6217 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
6218 adult members of that individual's household, with whom the agency is considering placing a child or
6219 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
6220 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
6221 the data shall not be further disseminated to any party other than a federal or state authority or court as
6222 may be required to comply with an express requirement of law;

6223 9. To the extent permitted by federal law or regulation, public service companies as defined in
6224 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
6225 personal contact with the public or when past criminal conduct of an applicant would be incompatible
6226 with the nature of the employment under consideration;

6227 10. The appropriate authority for purposes of granting citizenship and for purposes of international
6228 travel, including, but not limited to, issuing visas and passports;

6229 11. A person requesting a copy of his own criminal history record information as defined in
6230 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
6231 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
6232 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
6233 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
6234 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
6235 Solvers or Crime Line program as defined in § 15.2-1713.1;

6236 12. Administrators and board presidents of and applicants for licensure or registration as a child
6237 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
6238 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
6239 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
6240 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data
6241 shall not be further disseminated by the facility or agency to any party other than the data subject, the
6242 Commissioner of Social Services' representative or a federal or state authority or court as may be
6243 required to comply with an express requirement of law for such further dissemination; however, nothing
6244 in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative
6245 from issuing written certifications regarding the results of a background check that was conducted before
6246 July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

6247 13. The school boards of the Commonwealth for the purpose of screening individuals who are
6248 offered or who accept public school employment and those current school board employees for whom a
6249 report of arrest has been made pursuant to § 19.2-83.1;

6250 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
6251 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
6252 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
6253 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

6254 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
6255 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
6256 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject
6257 to the limitations set out in subsection E;

6258 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
6259 investigations of applicants for compensated employment in licensed assisted living facilities and
6260 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

6261 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
6262 in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth
6263 in § 4.1-622;

6264 18. The State Board of Elections and authorized officers and employees thereof and general registrars
6265 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
6266 voter registration, limited to any record of felony convictions;

6267 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
6268 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
6269 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

6270 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety

6271 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
6272 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

6273 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
6274 Department of Education, or the Department of Behavioral Health and Developmental Services for the
6275 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
6276 services;

6277 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
6278 Department for the purpose of determining an individual's fitness for employment pursuant to
6279 departmental instructions;

6280 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
6281 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
6282 records information on behalf of such governing boards or administrators pursuant to a written
6283 agreement with the Department of State Police;

6284 24. Public institutions of higher education and nonprofit private institutions of higher education for
6285 the purpose of screening individuals who are offered or accept employment;

6286 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
6287 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
6288 higher education, for the purpose of assessing or intervening with an individual whose behavior may
6289 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
6290 history record information obtained pursuant to this section or otherwise use any record of an individual
6291 beyond the purpose that such disclosure was made to the threat assessment team;

6292 26. Executive directors of community services boards or the personnel director serving the
6293 community services board for the purpose of determining an individual's fitness for employment,
6294 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
6295 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
6296 under contract with the community services board to serve in a direct care position on behalf of the
6297 community services board pursuant to §§ 37.2-506 and 37.2-607;

6298 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
6299 determining an individual's fitness for employment, approval as a sponsored residential service provider,
6300 permission to enter into a shared living arrangement with a person receiving medical assistance services
6301 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
6302 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and
6303 37.2-607;

6304 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
6305 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
6306 name, address, demographics and social security number of the data subject shall be released;

6307 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
6308 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
6309 purpose of determining if any applicant who accepts employment in any direct care position or requests
6310 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
6311 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
6312 under contract with the provider to serve in a direct care position has been convicted of a crime that
6313 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
6314 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

6315 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
6316 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
6317 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

6318 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
6319 Committee for Courts of Justice for the purpose of determining if any person being considered for
6320 election to any judgeship has been convicted of a crime;

6321 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
6322 determining an individual's fitness for employment in positions designated as sensitive under Department
6323 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

6324 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
6325 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
6326 Violent Predators Act (§ 37.2-900 et seq.);

6327 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
6328 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
6329 companies, for the conduct of investigations of applications for employment or for access to facilities,
6330 by contractors, leased laborers, and other visitors;

6331 35. Any employer of individuals whose employment requires that they enter the homes of others, for

6332 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

6333 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
6334 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
6335 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
6336 subject to the restriction that the data shall not be further disseminated by the agency to any party other
6337 than a federal or state authority or court as may be required to comply with an express requirement of
6338 law for such further dissemination, subject to limitations set out in subsection G;

6339 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
6340 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
6341 or have accepted a position related to the provision of transportation services to enrollees in the
6342 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
6343 program administered by the Department of Medical Assistance Services;

6344 38. The State Corporation Commission for the purpose of investigating individuals who are current
6345 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
6346 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of
6347 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
6348 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,
6349 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
6350 information to the applicant or its designee;

6351 39. The Department of Professional and Occupational Regulation for the purpose of investigating
6352 individuals for initial licensure pursuant to § 54.1-2106.1;

6353 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
6354 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
6355 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
6356 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

6357 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

6358 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
6359 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

6360 43. The Department of Education or its agents or designees for the purpose of screening individuals
6361 seeking to enter into a contract with the Department of Education or its agents or designees for the
6362 provision of child care services for which child care subsidy payments may be provided;

6363 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
6364 a juvenile's household when completing a predispositional or postdispositional report required by
6365 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

6366 45. The State Corporation Commission, for the purpose of screening applicants for insurance
6367 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

6368 46. Administrators and board presidents of and applicants for licensure or registration as a child day
6369 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
6370 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
6371 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
6372 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
6373 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
6374 representative, or a federal or state authority or court as may be required to comply with an express
6375 requirement of law for such further dissemination; however, nothing in this subdivision shall be
6376 construed to prohibit the Superintendent of Public Instruction's representative from issuing written
6377 certifications regarding the results of prior background checks in accordance with subsection J of
6378 § 22.1-289.035 or § 22.1-289.039; and

6379 47. Other entities as otherwise provided by law.

6380 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
6381 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
6382 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
6383 designated in the order on whom a report has been made under the provisions of this chapter.

6384 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
6385 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
6386 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
6387 copy of conviction data covering the person named in the request to the person making the request;
6388 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
6389 making of such request. A person receiving a copy of his own conviction data may utilize or further
6390 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
6391 subject, the person making the request shall be furnished at his cost a certification to that effect.

6392 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
6393 section shall be limited to the purposes for which it was given and may not be disseminated further,

except as otherwise provided in subdivision A 46.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and 551) Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that 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, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time

6455 employment with the State Police or a police department or sheriff's office that is a part of or
6456 administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health
6457 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer
6458 with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any
6459 full-time or part-time employee of the Department of Forensic Science for the purpose of screening any
6460 person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief
6461 law-enforcement officer of a locality, or his designee who shall be an individual employed as a public
6462 safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and
6463 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of
6464 an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or
6465 part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or
6466 any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations
6467 of the Federal Motor Carrier Safety Administration.

6468 B. An employer or educational institution shall not, in any application, interview, or otherwise,
6469 require an applicant for employment or admission to disclose information concerning any arrest, criminal
6470 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
6471 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any
6472 question concerning any arrest, criminal charge, or conviction, include a reference to or information
6473 concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal
6474 charge, or conviction is not open for public inspection pursuant to subsection A.

6475 C. Agencies, officials, and employees of the state and local governments shall not, in any
6476 application, interview, or otherwise, require an applicant for a license, permit, registration, or
6477 governmental service to disclose information concerning any arrest, criminal charge, or conviction
6478 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
6479 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
6480 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,
6481 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is
6482 not open for public inspection pursuant to subsection A. Such an application may not be denied solely
6483 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or
6484 conviction.

6485 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
6486 violation.

6487 **§ 19.2-389.3. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and 551)**
6488 **Marijuana possession; limits on dissemination of criminal history record information; prohibited**
6489 **practices by employers, educational institutions, and state and local governments; penalty.**

6490 A. Criminal history record information contained in the Central Criminal Records Exchange,
6491 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation
6492 of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§
6493 *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251,
6494 shall not be open for public inspection or otherwise disclosed, provided that such records may be
6495 disseminated and used for the following purposes: (i) to make the determination as provided in
6496 § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the
6497 fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal
6498 Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the
6499 State Police or a police department or sheriff's office that is a part of or administered by the
6500 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time
6501 or part-time employment with, or to be a volunteer with, the State Police or a police department or
6502 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
6503 thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person
6504 who applies to be a volunteer with or an employee of an emergency medical services agency as
6505 provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic
6506 Science for the purpose of screening any person for full-time or part-time employment with the
6507 Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee
6508 who shall be an individual employed as a public safety official of the locality, that has adopted an
6509 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who
6510 applies to be a volunteer with or an employee of an emergency medical services agency as provided in
6511 § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any
6512 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the
6513 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to
6514 any employer or prospective employer or its designee where federal law requires the employer to inquire
6515 about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee
6516 where the position that a person is applying for, or where access to the premises in or upon which any

part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

B. Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. The provisions of subsection B shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction

6578 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any
6579 question concerning any arrest, criminal charge, or conviction, include a reference to or information
6580 concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal
6581 charge, or conviction is not open for public inspection pursuant to subsection A. Such an application
6582 may not be denied solely because of the applicant's refusal to disclose information concerning any such
6583 arrest, criminal charge, or conviction.

6584 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined
6585 in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or
6586 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open
6587 for public inspection pursuant to subsection A. An applicant need not, in answer to any question
6588 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
6589 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
6590 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
6591 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
6592 criminal charge, or conviction.

6593 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
6594 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
6595 subsections, such application shall include, or such entity or person shall provide, a notice to the
6596 applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to
6597 subsection A does not have to be disclosed in the application. Such notice need not be included on any
6598 application for one or more of the purposes set forth in subsection C.

6599 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
6600 conviction that is not open for public inspection pursuant to subsection A or any information from such
6601 records among law-enforcement officers and attorneys when such disclosures are made by such officers
6602 or attorneys while engaged in the performance of their duties for purposes solely relating to the
6603 disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the
6604 Commonwealth when related to the prosecution of a separate crime.

6605 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
6606 each violation.

6607 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**
6608 **employees or volunteers providing care to children or the elderly or disabled.**

6609 A. For purposes of this section:

6610 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
6611 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony
6612 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,
6613 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or
6614 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6,
6615 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1,
6616 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1;
6617 any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1,
6618 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1,
6619 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86,
6620 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282,
6621 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or
6622 18.2-314; any felony violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355,
6623 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of
6624 § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6,
6625 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any
6626 felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423,
6627 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1,
6628 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any
6629 substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89,
6630 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of
6631 another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01,
6632 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,
6633 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of
6634 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the
6635 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement
6636 to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including
6637 any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1
6638 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's
6639 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to

§ 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

6701 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
6702 national criminal background check, the Department and the Federal Bureau of Investigation may each
6703 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
6704 with the fingerprints.

6705 G. The failure to request a criminal background check pursuant to subsection B shall not be
6706 considered negligence per se in any civil action.

6707 **§ 19.2-392.6. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**
6708 **Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction.**

6709 A. If a person was charged with an offense in violation of § 4.1-305 or former § 18.2-250.1, and
6710 such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including
6711 any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth
6712 in § 19.2-392.7, subject to the provisions of subsections C and D.

6713 B. If a person was convicted of a violation of any of the following sections, such conviction,
6714 including any records relating to such conviction, shall be ordered to be automatically sealed in the
6715 manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D: § 4.1-305, 18.2-96,
6716 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; or former
6717 § 18.2-250.1 or 18.2-415.

6718 C. Subject to the provisions of subsection D, any offense listed under subsection A and any
6719 conviction listed under subsection B shall be ordered to be automatically sealed if seven years have
6720 passed since the date of the dismissal or conviction and the person charged with or convicted of such
6721 offense has not been convicted of violating any law of the Commonwealth that requires a report to the
6722 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of
6723 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2,
6724 during that time period.

6725 D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral
6726 or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under
6727 subsection A or B. No conviction listed under subsection B shall be automatically sealed if, on the date
6728 of the conviction, the person was convicted of another offense that is not eligible for automatic sealing
6729 under subsection A or B.

6730 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
6731 court pursuant to the provisions of § 19.2-392.12.

6732 **§ 22.1-141.3. Public School Assistance Fund and Program.**

6733 A. *There is hereby created in the state treasury a special nonreverting fund to be known as the*
6734 *Public School Assistance Fund (the Fund). The Fund shall be established on the books of the*
6735 *Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and*
6736 *other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest*
6737 *earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in*
6738 *the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund*
6739 *but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing*
6740 *grants to local school divisions through the Public School Assistance Program created pursuant to*
6741 *subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on*
6742 *warrants issued by the Comptroller upon written request signed by the Superintendent of Public*
6743 *Instruction.*

6744 B. *There is hereby created the Public School Assistance Program (the Program) for the purpose of*
6745 *providing grants from the Fund to school boards to be used solely for the purpose of repairing or*
6746 *replacing the roofs of public elementary and secondary school buildings in the local school division.*
6747 *The Department of Education shall administer the Program and shall establish such guidelines and*
6748 *procedures as it deems necessary for the administration of the Program, including guidelines and*
6749 *procedures for grant applications, awards, and renewals. Any school board in the Commonwealth may*
6750 *apply for Program grants. The Department of Education shall give priority in the award of grants to*
6751 *school boards that demonstrate the greatest need based on the condition of existing school building*
6752 *roofs and the ability to pay for the repair or replacement of such roofs.*

6753 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**
6754 **products, and gambling.**

6755 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed
6756 by the Board of Education.

6757 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,
6758 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia
6759 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
6760 educational materials to the Department of Education. The Department of Education shall review and
6761 shall distribute such materials as are approved to the public schools.

6762 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall

distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

D. Instruction concerning gambling and the addictive potential thereof shall be provided by the public schools as prescribed by the Board.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, *or* imitation controlled substance, ~~or marijuana~~ *as those terms are* defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.

A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, state correctional officer, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at any public institution of higher education under the following conditions:

1. The chief executive officer of the deceased individual's employer certifies that such individual was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress are eligible for renewal of such waiver.

B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user fees such as room and board charges.

C. Each public institution of higher education shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-1301. (Effective September 1, 2022) Governing boards; powers.

A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;
2. Manage the funds of the institution and approve an annual budget;
3. Appoint the chief executive officer of the institution;
4. Appoint professors and fix their salaries; and
5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

B. The governing board of each public institution of higher education or its designee may:

1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other

- 6824 purposes on any property owned by the institution;
- 6825 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
- 6826 maintained, or controlled by the institution;
- 6827 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
- 6828 instructors, and other employees;
- 6829 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to
- 6830 the regulations or institution policies required pursuant to § 23.1-1303;
- 6831 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
- 6832 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
- 6833 by such regulations or policies;
- 6834 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
- 6835 promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii)
- 6836 the awareness and prevention of sexual crimes committed upon students;
- 6837 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority
- 6838 in accordance with the prohibition against hazing as defined in § 18.2-56;
- 6839 9. Assign any interest it possesses in intellectual property or in materials in which the institution
- 6840 claims an interest, provided such assignment is in accordance with the terms of the institution's
- 6841 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is
- 6842 required for transfers of such property (i) developed wholly or predominantly through the use of state
- 6843 general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting
- 6844 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)
- 6845 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage
- 6846 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity
- 6847 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these
- 6848 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials
- 6849 shall remain the property of the respective institutions and may be used and developed in any manner
- 6850 permitted by law;
- 6851 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
- 6852 electronic communication means pursuant to § 2.2-3708.3; and
- 6853 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution
- 6854 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the
- 6855 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes
- 6856 and local ordinances with respect to offenses occurring on the property of the institution.
- 6857 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**
- 6858 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the
- 6859 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth
- 6860 without the payment of toll while in the performance of their official duties:
- 6861 1. The Commissioner of Highways;
- 6862 2. Members of the Commonwealth Transportation Board;
- 6863 3. Employees of the Department of Transportation;
- 6864 4. The Superintendent of ~~the Department of~~ State Police;
- 6865 5. Officers and employees of the Department of State Police;
- 6866 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the*
- 6867 *Board of Directions of the Virginia Cannabis Control Authority*;
- 6868 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control
- 6869 Authority *or the Virginia Cannabis Control Authority* and special agents of the Virginia Alcoholic
- 6870 Beverage Control Authority *or the Virginia Cannabis Control Authority*;
- 6871 8. The Commissioner of the Department of Motor Vehicles;
- 6872 9. Employees of the Department of Motor Vehicles;
- 6873 10. Local police officers;
- 6874 11. Sheriffs and their deputies;
- 6875 12. Regional jail officials;
- 6876 13. Animal wardens;
- 6877 14. The Director and officers of the Department of Wildlife Resources;
- 6878 15. Persons operating firefighting equipment and emergency medical services vehicles as defined in
- 6879 § 32.1-111.1;
- 6880 16. Operators of school buses being used to transport pupils to or from schools;
- 6881 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the
- 6882 driver, and used to regularly transport workers to and from their places of employment and (ii) public
- 6883 transit buses;
- 6884 18. Employees of the Department of Rail and Public Transportation;
- 6885 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation

Act of 1988; and

20. Law-enforcement officers of the Virginia Marine Resources Commission.

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

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

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

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

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

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

2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that 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 the Commonwealth. 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.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 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.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in

6947 affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent
6948 with the terms of the applicable comprehensive agreement between the operator and the Department.
6949 The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant
6950 to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll
6951 collections on other tolled facilities in the same affected area, whichever occurs first.

6952 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in
6953 Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements
6954 of subdivisions D 1 through 4.

6955 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of
6956 the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of
6957 subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined
6958 pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

6959 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

6960 A. It ~~shall be~~ *is* unlawful for any person to obtain a Virginia driver's license, special identification
6961 card, vehicle registration, certificate of title, or other document issued by the Department if such person
6962 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not
6963 legally entitled thereto, including obtaining any document issued by the Department through the use of
6964 counterfeit, forged, or altered documents.

6965 B. It ~~shall be~~ *is* unlawful to aid any person to obtain any driver's license, special identification card,
6966 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

6967 C. It ~~shall be~~ *is* unlawful to knowingly possess or use for any purpose any driver's license, special
6968 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
6969 provisions of subsection A.

6970 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is
6971 charged and convicted of a violation of this section that involved the unlawful obtaining or possession
6972 of any document issued by the Department for the purpose of engaging in any age-limited activity,
6973 including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*.
6974 However, if a person is charged and convicted of any other violation of this section, such offense shall
6975 constitute a Class 6 felony.

6976 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
6977 identification card, vehicle registration, certificate of title, or other document issued by the Department
6978 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
6979 notice of the cancellation to the address of record maintained by the Department.

6980 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
6981 **card to obtain alcoholic beverages; penalties.**

6982 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
6983 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the
6984 United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or
6985 government; United States Armed Forces identification card; United States passport or foreign
6986 government visa; Virginia Department of Motor Vehicles special identification card; official
6987 identification issued by any other federal, state or foreign government agency; or official student
6988 identification card of an institution of higher education to obtain alcoholic beverages ~~shall be~~ *or*
6989 *marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the
6990 court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a
6991 period of not less than 30 days nor more than one year.

6992 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

6993 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
6994 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia
6995 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such
6996 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
6997 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
6998 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the
6999 chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall,
7000 upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without
7001 bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of
7002 the court that the threat to public safety complained of exists and is likely to continue if such injunction
7003 is not granted. The court hearing on the petition shall be held within 10 days of service upon the
7004 respondent. The respondent shall be served with notice of the time and place of the hearing and copies
7005 of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued
7006 by the court shall be dissolved in the event the court later finds that the threat to public safety that is
7007 the basis of the injunction has been abated by reason of a change of ownership, management, or
7008 business operations at the establishment, or other change in circumstance.

B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

§ 51.1-212. Definitions.

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

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101, *4.1-1114*, 18.2-248, 18.2-248.01, ~~48.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word,

7070 letter or designation intending to designate or imply that he is a practitioner of the healing arts or that
7071 he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

7072 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
7073 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
7074 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
7075 practicing the healing arts within the meaning of this chapter except where persons other than physicians
7076 are required to sign birth certificates.

7077 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
7078 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
7079 abbreviation or designation, or other language that identifies the type of practice for which he is
7080 licensed. No person regulated under this chapter shall include in any advertisement a reference to
7081 marijuana, as defined in § 48.2-247 54.1-3401, unless such advertisement is for the treatment of
7082 addiction or substance abuse. However, nothing in this subsection shall prevent a person from including
7083 in any advertisement that such person is registered with the Board of Pharmacy to issue written
7084 certifications for the use of cannabis products, as defined in § 54.1-3408.3.

7085 **§ 54.1-3401. Definitions.**

7086 As used in this chapter, unless the context requires a different meaning:

7087 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,
7088 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his
7089 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the
7090 presence of the practitioner.

7091 "Advertisement" means all representations disseminated in any manner or by any means, other than
7092 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the
7093 purchase of drugs or devices.

7094 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,
7095 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or
7096 employee of the carrier or warehouseman.

7097 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related
7098 to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

7099 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

7100 "Automated drug dispensing system" means a mechanical or electronic system that performs
7101 operations or activities, other than compounding or administration, relating to pharmacy services,
7102 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of
7103 all transaction information, to provide security and accountability for such drugs.

7104 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood
7105 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or
7106 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic
7107 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human
7108 beings.

7109 "Biosimilar" means a biological product that is highly similar to a specific reference biological
7110 product, notwithstanding minor differences in clinically inactive compounds, such that there are no
7111 clinically meaningful differences between the reference biological product and the biological product that
7112 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency
7113 of the product.

7114 "Board" means the Board of Pharmacy.

7115 "Bulk drug substance" means any substance that is represented for use, and that, when used in the
7116 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a
7117 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that
7118 are used in the synthesis of such substances.

7119 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i)
7120 the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns
7121 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a
7122 partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more
7123 of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation
7124 of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the
7125 voting stock of which is actively traded on any securities exchange or in any over-the-counter market;
7126 (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned
7127 subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a
7128 corporation's charter.

7129 "Co-licensed partner" means a person who, with at least one other person, has the right to engage in
7130 the manufacturing or marketing of a prescription drug, consistent with state and federal law.

7131 "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 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. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"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, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"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

- 7193 practitioner to patients to take with them away from the practitioner's place of practice.
- 7194 "Dispenser" means a practitioner who dispenses.
- 7195 "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- 7196 "Distributor" means a person who distributes.
- 7197 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia
- 7198 National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to
- 7199 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or
- 7200 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect
- 7201 the structure or any function of the body of man or animals; (iv) articles or substances intended for use
- 7202 as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug"
- 7203 does not include devices or their components, parts, or accessories.
- 7204 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether
- 7205 by brand or therapeutically equivalent drug product name.
- 7206 "Electronic prescription" means a written prescription that is generated on an electronic application
- 7207 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be
- 7208 transmitted in accordance with 21 C.F.R. Part 1300.
- 7209 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an
- 7210 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy
- 7211 form.
- 7212 "FDA" means the U.S. Food and Drug Administration.
- 7213 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by
- 7214 regulation designates as being the principal compound commonly used or produced primarily for use,
- 7215 and which is an immediate chemical intermediary used or likely to be used in the manufacture of a
- 7216 controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.
- 7217 "Interchangeable" means a biosimilar that meets safety standards for determining interchangeability
- 7218 pursuant to 42 U.S.C. § 262(k)(4).
- 7219 "Label" means a display of written, printed, or graphic matter upon the immediate container of any
- 7220 article. A requirement made by or under authority of this chapter that any word, statement, or other
- 7221 information appear on the label shall not be considered to be complied with unless such word,
- 7222 statement, or other information also appears on the outside container or wrapper, if any, of the retail
- 7223 package of such article or is easily legible through the outside container or wrapper.
- 7224 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its
- 7225 containers or wrappers, or accompanying such article.
- 7226 "Manufacture" means the production, preparation, propagation, conversion, or processing of any item
- 7227 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or
- 7228 independently by means of chemical synthesis, or by a combination of extraction and chemical
- 7229 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its
- 7230 container. This term does not include compounding.
- 7231 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a
- 7232 repackager.
- 7233 "Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or
- 7234 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its
- 7235 seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the
- 7236 mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such
- 7237 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*.
- 7238 Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person
- 7239 registered pursuant to subsection A of § 3.2-4115 or his agent, (ii) industrial hemp, as defined in
- 7240 § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S.
- 7241 Department of Agriculture pursuant to 7 C.F.R. Part 990, or (iii) a hemp product, *other than a regulated*
- 7242 *hemp product*, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater
- 7243 than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or
- 7244 processed in compliance with state or federal law, *or (iv) a regulated hemp product that does not exceed*
- 7245 *the maximum tetrahydrocannabinol concentration established pursuant to § 4.1-606 and that is derived*
- 7246 *from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with*
- 7247 *state or federal law.*
- 7248 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to
- 7249 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and
- 7250 needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with
- 7251 no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for
- 7252 peritoneal dialysis, and sterile water or saline for irrigation.
- 7253 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction
- 7254 from substances of vegetable origin, or independently by means of chemical synthesis, or by a

7255 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,
 7256 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof
 7257 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not
 7258 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and
 7259 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,
 7260 derivative, or preparation thereof which is chemically equivalent or identical with any of these
 7261 substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain
 7262 cocaine or ecgonine.

7263 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a
 7264 new animal drug, the composition of which is such that such drug is not generally recognized, among
 7265 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,
 7266 as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,
 7267 except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior
 7268 to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as
 7269 amended, and if at such time its labeling contained the same representations concerning the conditions
 7270 of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new
 7271 animal drug, the composition of which is such that such drug, as a result of investigations to determine
 7272 its safety and effectiveness for use under such conditions, has become so recognized, but which has not,
 7273 otherwise than in such investigations, been used to a material extent or for a material time under such
 7274 conditions.

7275 "Nuclear medicine technologist" means an individual who holds a current certification with the
 7276 American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification
 7277 Board.

7278 "Official compendium" means the official United States Pharmacopoeia National Formulary, official
 7279 Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

7280 "Official written order" means an order written on a form provided for that purpose by the U.S. Drug
 7281 Enforcement Administration, under any laws of the United States making provision therefor, if such
 7282 order forms are authorized and required by federal law, and if no such order form is provided then on
 7283 an official form provided for that purpose by the Board of Pharmacy.

7284 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to
 7285 morphine or being capable of conversion into a drug having such addiction-forming or
 7286 addiction-sustaining liability. It does not include, unless specifically designated as controlled under
 7287 Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
 7288 (dextromethorphan). It does include its racemic and levorotatory forms.

7289 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

7290 "Original package" means the unbroken container or wrapping in which any drug or medicine is
 7291 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor
 7292 for use in the delivery or display of such article.

7293 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is
 7294 currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and
 7295 that complies with all applicable requirements of federal and state law, including the Federal Food,
 7296 Drug, and Cosmetic Act.

7297 "Person" means both the plural and singular, as the case demands, and includes an individual,
 7298 partnership, corporation, association, governmental agency, trust, or other institution or entity.

7299 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application
 7300 for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in
 7301 a manner complying with the laws and regulations for the practice of pharmacy and the sale and
 7302 dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy
 7303 and the pharmacy's personnel as required by § 54.1-3432.

7304 "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

7305 "Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01,
 7306 licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified
 7307 optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator,
 7308 or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and
 7309 administer, or conduct research with respect to a controlled substance in the course of professional
 7310 practice or research in the Commonwealth.

7311 "Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue
 7312 a prescription.

7313 "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word
 7314 of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed
 7315 physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such

7316 drugs or medical supplies.

7317 "Prescription drug" means any drug required by federal law or regulation to be dispensed only
7318 pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of
7319 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

7320 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a
7321 controlled substance or marijuana.

7322 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,
7323 original package which does not contain any controlled substance or marijuana as defined in this chapter
7324 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general
7325 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade
7326 name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of
7327 this chapter and applicable federal law. However, this definition shall not include a drug that is only
7328 advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic,
7329 a drug that may be dispensed only upon prescription or the label of which bears substantially the
7330 statement "Warning — may be habit-forming," or a drug intended for injection.

7331 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei
7332 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or
7333 radionuclide generator that is intended to be used in the preparation of any such substance, but does not
7334 include drugs such as carbon-containing compounds or potassium-containing salts that include trace
7335 quantities of naturally occurring radionuclides. The term also includes any biological product that is
7336 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

7337 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.
7338 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food
7339 and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to
7340 42 U.S.C. § 262(k).

7341 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any
7342 person, whether as an individual, proprietor, agent, servant, or employee.

7343 "Therapeutically equivalent drug products" means drug products that contain the same active
7344 ingredients and are identical in strength or concentration, dosage form, and route of administration and
7345 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration
7346 pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent
7347 edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as
7348 the "Orange Book."

7349 "Third-party logistics provider" means a person that provides or coordinates warehousing of or other
7350 logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale
7351 distributor, or dispenser of the drug or device but does not take ownership of the product or have
7352 responsibility for directing the sale or disposition of the product.

7353 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

7354 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party
7355 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or
7356 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI
7357 prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be
7358 subject to any state or local tax by reason of this definition.

7359 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers
7360 or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer
7361 pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security
7362 Act.

7363 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed
7364 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

7365 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter
7366 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses
7367 or lenses for the eyes.

7368 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be
7369 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

7370 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

7371 A. As used in this section:

7372 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts
7373 of the same chemovar of cannabis plant.

7374 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include
7375 industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor
7376 pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than
7377 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp,

as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248 or ~~18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom

7439 any individual is authorized to act as a registered agent.

7440 H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility
7441 to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is
7442 licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
7443 administer medications, may accept delivery of the cannabis product on behalf of a patient or resident
7444 for subsequent delivery to the patient or resident and may assist in the administration of the cannabis
7445 product to the patient or resident as necessary.

7446 I. Information obtained under the registration process shall be confidential and shall not be subject to
7447 the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
7448 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
7449 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
7450 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific
7451 violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing
7452 patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a
7453 pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a
7454 registered agent, but only with respect to information related to such patient.

7455 **§ 54.1-3442.8. Criminal liability; exceptions.**

7456 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
7457 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for
7458 possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis
7459 products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action
7460 by a professional licensing board if such agent or employee (i) possessed or manufactured such
7461 marijuana for the purposes of producing cannabis products in accordance with the provisions of this
7462 article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that
7463 are consistent with generally accepted cannabis industry standards in accordance with the provisions of
7464 this article and Board regulations.

7465 **§ 54.1-3446. Schedule I.**

7466 The controlled substances listed in this section are included in Schedule I:

7467 1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers,
7468 esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers
7469 and salts is possible within the specific chemical designation:

7470 1-[1-[1-(4-bromophenyl)ethyl]-4-piperidinyl]-1,3-dihydro-2H-benzimidazol-2-one (other name:
7471 Brorphine);

7472 1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);

7473 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

7474 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

7475 2-[(4-methoxyphenyl)methyl]-N,N-diethyl-5-nitro-1H-benzimidazole-1-ethanamine (other name:
7476 Metonitazene);

7477 2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl
7478 fentanyl);

7479 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

7480 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);

7481 Acetyl fentanyl (other name: desmethyl fentanyl);

7482 Acetylmethadol;

7483 Allylprodine;

7484 Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol,
7485 levomethadyl acetate, or LAAM);

7486 Alphameprodine;

7487 Alphamethadol;

7488 Benzethidine;

7489 Betacetylmethadol;

7490 Betameprodine;

7491 Betamethadol;

7492 Betaprodine;

7493 Clonitazene;

7494 Dextromoramide;

7495 Diampromide;

7496 Diethylthiambutene;

7497 Difenoxin;

7498 Dimenoxadol;

7499 Dimepheptanol;

7500 Dimethylthiambutene;

7501	Dioxaphetylbutyrate;
7502	Dipipanone;
7503	Ethylmethylthiambutene;
7504	Etonitazene;
7505	Etoxidine;
7506	Furethidine;
7507	Hydroxypethidine;
7508	Ketobemidone;
7509	Levomoramide;
7510	Levophenacetylmorphan;
7511	Morpheridine;
7512	MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
7513	N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
7514	N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuran-2-yl fentanyl);
7515	N-[1-(1-methyl-2-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
7516	N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
7517	N-[1-(2-hydroxy-2-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
7518	N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
7519	N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
7520	N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
7521	N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: 3-fluorofentanyl);
7522	N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
7523	N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
7524	N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
7525	N-(4-chlorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other names: para-chlorofentanyl, 4-chlorofentanyl);
7526	N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluoroisobutyl fentanyl);
7527	N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: para-fluorobutylfentanyl);
7528	N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluorofentanyl);
7529	N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other name: Isotonitazene);
7530	N,N-diethyl-2-[(4-ethoxyphenyl) methyl]-1H-benzimidazol-1-yl}-ethan-1-amine (other names: Etazene, Desnitroetonitazene);
7531	N,N-diethyl-2-[(4-methoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine (other name: Metodesnitazene);
7532	N-phenyl-N-[1-(2-phenylmethyl)-4-piperidyl]-2-furancarboxamide (other name: N-benzyl Furanyl norfentanyl);
7533	N-phenyl-N-(4-piperidyl)-propanamide (other name: Norfentanyl);
7534	Noracymethadol;
7535	Norlevorphanol;
7536	Normethadone;
7537	Norpipanone;
7538	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-furancarboxamide (other name: Furanyl fentanyl);
7539	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-propenamide (other name: Acryl fentanyl);
7540	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: butyl fentanyl);
7541	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-pentanamide (other name: Pentanoyl fentanyl);
7542	N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl);
7543	Phenadoxone;
7544	Phenampromide;
7545	Phenomorphane;

- 7562** Phenoperidine;
7563 Piritramide;
7564 Proheptazine;
7565 Properidine;
7566 Propiram;
7567 Racemoramide;
7568 Tilidine;
7569 Trimeperidine;
7570 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name:
7571 Benzodioxole fentanyl);
7572 3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
7573 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
7574 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
7575 N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);
7576 N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name:
7577 4-methoxybutyrylfentanyl);
7578 N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
7579 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl
7580 fentanyl);
7581 N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
7582 N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names:
7583 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
7584 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butanamide (other name: Crotonyl fentanyl);
7585 N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
7586 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl
7587 fentanyl);
7588 N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
7589 N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
7590 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl
7591 U-47700).
7592 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless
7593 specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible
7594 within the specific chemical designation:
7595 Acetorphine;
7596 Acetyldihydrocodeine;
7597 Benzylmorphine;
7598 Codeine methylbromide;
7599 Codeine-N-Oxide;
7600 Cyprenorphine;
7601 Desomorphine;
7602 Dihydromorphine;
7603 Drotebanol;
7604 Etorphine;
7605 Heroin;
7606 Hydromorphenol;
7607 Methyl-desorphine;
7608 Methyl-dihydromorphine;
7609 Morphine methylbromide;
7610 Morphine methylsulfonate;
7611 Morphine-N-Oxide;
7612 Myrophine;
7613 Nicocodeine;
7614 Nicomorphine;
7615 Normorphine;
7616 Pholcodine;
7617 Thebacon.
7618 3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture,
7619 or preparation, which contains any quantity of the following hallucinogenic substances, or which
7620 contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers,
7621 and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision
7622 only, the term "isomer" includes the optical, position, and geometric isomers):
7623 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine);

- 7624 3-2-aminobutyl] indole; a-ET; AET);
- 7625 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:
- 7626 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);
- 7627 3,4-methylenedioxy amphetamine;
- 7628 5-methoxy-3,4-methylenedioxy amphetamine;
- 7629 3,4,5-trimethoxy amphetamine;
- 7630 Alpha-methyltryptamine (other name: AMT);
- 7631 Bufotenine;
- 7632 Diethyltryptamine;
- 7633 Dimethyltryptamine;
- 7634 4-methyl-2,5-dimethoxyamphetamine;
- 7635 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 7636 4-fluoro-N-ethylamphetamine;
- 7637 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
- 7638 Ibogaine;
- 7639 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
- 7640 Lysergic acid diethylamide;
- 7641 Mescaline;
- 7642 Parahexyl (some trade or other names:
- 7643 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
- 7644 Peyote;
- 7645 N-ethyl-3-piperidyl benzilate;
- 7646 N-methyl-3-piperidyl benzilate;
- 7647 Psilocybin;
- 7648 Psilocyn;
- 7649 Salvinorin A;
- 7650 Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is
- 7651 possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp
- 7652 product, *other than a regulated hemp product*, as defined in § 3.2-4112, containing a
- 7653 tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp,
- 7654 as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii)
- 7655 marijuana; (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product
- 7656 approved by the U.S. Food and Drug Administration; or (v) industrial hemp, as defined in § 3.2-4112,
- 7657 that is possessed by a person who holds a hemp producer license issued by the U.S. Department of
- 7658 Agriculture pursuant to 7 C.F.R. Part 990; or (vi) *a regulated hemp product that does not exceed the*
- 7659 *maximum tetrahydrocannabinol concentration established pursuant to § 4.1-606 and that is derived from*
- 7660 *industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or*
- 7661 *federal law*;
- 7662 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
- 7663 2,5-DMA);
- 7664 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts
- 7665 and salts of isomers;
- 7666 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
- 7667 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
- 7668 N-hydroxy-3,4-methylenedioxyamphetamine (some other names:
- 7669 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
- 7670 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:
- 7671 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
- 7672 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;
- 7673 paramethoxyamphetamine; PMA);
- 7674 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,
- 7675 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
- 7676 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy,
- 7677 PHP);
- 7678 Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine,
- 7679 2-thienyl analog of phencyclidine, TPCP, TCP);
- 7680 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
- 7681 3,4-methylenedioxypyrovalerone (other name: MDPV);
- 7682 4-methylmethcathinone (other names: mephedrone, 4-MMC);
- 7683 3,4-methylenedioxymethcathinone (other name: methylone);
- 7684 Naphthylpyrovalerone (other name: naphyrone);

7685	4-fluoromethcathinone (other names: flephedrone, 4-FMC);
7686	4-methoxymethcathinone (other names: methedrone; bk-PMMA);
7687	Ethcathinone (other name: N-ethylcathinone);
7688	3,4-methylenedioxyethcathinone (other name: ethylone);
7689	Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
7690	N,N-dimethylcathinone (other name: metamfepramone);
7691	Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
7692	4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
7693	3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
7694	Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
7695	6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
7696	3-fluoromethcathinone (other name: 3-FMC);
7697	4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
7698	4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
7699	4-Methylethcathinone (other name: 4-MEC);
7700	4-Ethylmethcathinone (other name: 4-EMC);
7701	N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
7702	Beta-keto-methylbenzodioxolylpentanamine (other names: Pentylone, bk-MBDP);
7703	Alpha-methylamino-butyrophenone (other name: Buphedrone);
7704	Alpha-methylamino-valerophenone (other name: Pentedrone);
7705	3,4-Dimethylmethcathinone (other name: 3,4-dmmc);
7706	4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
7707	4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I,
7708	25I-NBOMe, 2C-I-NBOMe);
7709	Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
7710	4-Fluoromethamphetamine (other name: 4-FMA);
7711	4-Fluoroamphetamine (other name: 4-FA);
7712	2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
7713	2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
7714	2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
7715	2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
7716	2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
7717	2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
7718	2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
7719	(2-aminopropyl)benzofuran (other name: APB);
7720	(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
7721	4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:
7722	2C-C-NBOMe, 25C-NBOMe, 25C);
7723	4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:
7724	2C-B-NBOMe, 25B-NBOMe, 25B);
7725	Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
7726	Benocyclidine (other names: BCP, BTCP);
7727	Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
7728	3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
7729	4-bromomethcathinone (other name: 4-BMC);
7730	4-chloromethcathinone (other name: 4-CMC);
7731	4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
7732	Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
7733	Alpha-Pyrrolidinoheptiophenone (other name: PV8);
7734	5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
7735	Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
7736	Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
7737	1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
7738	1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
7739	1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
7740	4-Chloroethcathinone (other name: 4-CEC);
7741	3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
7742	1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
7743	(2-Methylaminopropyl)benzofuran (other name: MAPB);
7744	1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone,
7745	Dipentylone);
7746	1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);

- 7747 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
- 7748 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
- 7749 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
- 7750 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
- 7751 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
- 7752 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
- 7753 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
- 7754 4-methyl-alpha-ethylaminopentiophenone;
- 7755 4-methyl-alpha-Pyrrolidinoheptiophenone (other name: MPHP);
- 7756 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
- 7757 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
- 7758 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
- 7759 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
- 7760 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
- 7761 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
- 7762 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
- 7763 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
- 7764 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
- 7765 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
- 7766 4-fluoro-alpha-pyrrolidinoheptiophenone (other name: 4-fluoro-alpha-PHP);
- 7767 N-ethyl-1,2-diphenylethylamine (other name: Ephedrine);
- 7768 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
- 7769 3,4-methylenedioxy-N-tert-butylcathinone;
- 7770 Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
- 7771 1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
- 7772 4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
- 7773 4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MIPT);
- 7774 3,4-Methylenedioxy-alpha-pyrrolidinoheptanophenone (other name: MDPHP);
- 7775 5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
- 7776 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
- 7777 1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
- 7778 N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
- 7779 1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
- 7780 1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
- 7781 2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
- 7782 (2-ethylaminopropyl)benzofuran (other name: EAPB);
- 7783 4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);
- 7784 2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
- 7785 4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
- 7786 2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-isobutylaminohexanphenone);
- 7787 1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine, PMMA);
- 7790 N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
- 7791 N-heptyl-3,4-dimethoxyamphetamine (other name: N-heptyl-3,4-DMA);
- 7792 N-hexyl-3,4-dimethoxyamphetamine (other name: N-hexyl-3,4-DMA);
- 7793 4-fluoro-3-methyl-alpha-pyrrolidinovalerophenone (other name: 4-fluoro-3-methyl-alpha-PVP);
- 7794 4-fluoro-alpha-methylamino-valerophenone (other name: 4-fluoropentedrone);
- 7795 N-(1,4-dimethylpentyl)-3,4-dimethoxyamphetamine (other name: N-(1,4-dimethylpentyl)-3,4-DMA);
- 7796 4,5-methylenedioxy-N,N-diisopropyltryptamine (other name: 4,5-MDO-DIPT);
- 7797 Alpha-pyrrolidinocyclohexanophenone (other name: alpha-PCYP);
- 7798 3,4-methylenedioxy-alpha-pyrrolidinoheptiophenone (other name: MDPV8);
- 7799 4-chloro-alpha-methylaminobutiophenone (other name: 4-chloro Buphedrone).
- 7800 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
- 7801 or preparation which contains any quantity of the following substances having a depressant effect on the
- 7802 central nervous system, including its salts, isomers and salts of isomers whenever the existence of such
- 7803 salts, isomers and salts of isomers is possible within the specific chemical designation:
- 7804 5-(2-chlorophenyl)-1,3-dihydro-3-methyl-7-nitro-2H-1,4-benzodiazepin-2-one (other name:
- 7805 Meclonazepam);
- 7806 7-chloro-5-(2-fluorophenyl)-1,3-dihydro-1,4-benzodiazepin-2-one (other name: Norfludiazepam);
- 7807 Bromazolam;

- 7808 Clonazepam;
7809 Deschloroetizolam;
7810 Etizolam;
7811 Flualprazolam;
7812 Flubromazepam;
7813 Flubromazolam;
7814 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;
7815 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
7816 Mecloqualone;
7817 Methaqualone.
7818 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
7819 or preparation which contains any quantity of the following substances having a stimulant effect on the
7820 central nervous system, including its salts, isomers and salts of isomers:
7821 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
7822 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;
7823 4,5-dihydro-5-phenyl-2-oxazolamine);
7824 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
7825 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
7826 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
7827 Ethylamphetamine;
7828 Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);
7829 Fenethylamine;
7830 Methcathinone (some other names: 2-(methylamino)-propionophenone;
7831 alpha-(methylamino)-propionophenone; 2-(methylamino)-1-phenylpropan-1-one;
7832 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
7833 methylcathinone; AL-464; AL-422; AL-463 and UR 1432);
7834 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
7835 N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine,
7836 N,N-alpha-trimethylphenethylamine);
7837 Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);
7838 Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);
7839 4-chloro-N,N-dimethylcathinone;
7840 3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).
7841 6. Any substance that contains one or more cannabimimetic agents or that contains their salts,
7842 isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is
7843 possible within the specific chemical designation, and any preparation, mixture, or substance containing,
7844 or mixed or infused with, any detectable amount of one or more cannabimimetic agents.
7845 a. "Cannabimimetic agents" includes any substance that is within any of the following structural
7846 classes:
7847 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or
7848 alkenyl, whether or not substituted on the cyclohexyl ring to any extent;
7849 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of
7850 the indole ring, whether or not further substituted on the indole ring to any extent, whether or not
7851 substituted on the naphthoyl or naphthyl ring to any extent;
7852 3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not
7853 further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to
7854 any extent;
7855 1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not
7856 further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to
7857 any extent;
7858 3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring,
7859 whether or not further substituted in the indole ring to any extent, whether or not substituted on the
7860 phenyl ring to any extent;
7861 3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
7862 substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any
7863 extent;
7864 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
7865 substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any
7866 extent;
7867 N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring,
7868 whether or not further substituted on the indole ring to any extent, whether or not substituted on the
7869 adamantyl ring to any extent; and

- 7870 N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring,
 7871 whether or not further substituted on the indazole ring to any extent, whether or not substituted on the
 7872 adamantyl ring to any extent.
- 7873 b. The term "cannabimimetic agents" includes:
- 7874 5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);
 7875 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);
 7876 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);
 7877 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);
 7878 1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);
 7879 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);
 7880 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);
 7881 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);
 7882 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);
 7883 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet
 7884 rahydrobenzo[c]chromen-1-ol (other name: HU-210);
 7885 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);
 7886 1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);
 7887 1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);
 7888 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);
 7889 1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);
 7890 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);
 7891 1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);
 7892 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
 7893 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
 7894 Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other
 7895 name: WIN 48,098);
 7896 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
 7897 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
 7898 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
 7899 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11,
 7900 5-fluoro-UR-144);
 7901 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
 7902 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
 7903 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
 7904 (8-quinoliny)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
 7905 (8-quinoliny)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
 7906 (8-quinoliny)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
 7907 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
 7908 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name:
 7909 AB-FUBINACA);
 7910 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
 7911 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name:
 7912 ADB-PINACA);
 7913 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name:
 7914 AB-CHMINACA);
 7915 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
 7916 5-fluoro-AB-PINACA);
 7917 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names:
 7918 ADB-CHMINACA, MAB-CHMINACA);
 7919 Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name:
 7920 5-fluoro-AMB);
 7921 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
 7922 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
 7923 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
 7924 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide
 7925 (other name: ADB-FUBINACA);
 7926 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:
 7927 MDMB-FUBINACA);
 7928 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names:
 7929 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
 7930 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other

7931 names: AMB-FUBINACA, FUB-AMB);
 7932 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other names: FUB-AKB48,
 7933 5F-APINACA);
 7934 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
 7935 N-(adamantan-1-yl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
 7936 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
 7937 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name:
 7938 AB-CHMICA);
 7939 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
 7940 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
 7941 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
 7942 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
 7943 5-fluoro-ADB-PINACA);
 7944 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano
 7945 CUMYL-BUTINACA);
 7946 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro
 7947 MDMB-PICA, 5F-MDMB-PICA);
 7948 Ethyl 2-([1-(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl)amino-3-methylbutanoate (other name:
 7949 EMB-FUBINACA);
 7950 Methyl 2-[1-(4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:
 7951 4-fluoro-MDMB-BUTINACA);
 7952 1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro
 7953 CUMYL-PICA);
 7954 Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:
 7955 MDMB-4en-PINACA);
 7956 Methyl 2-([1-(4-fluorophenyl)methyl]-1H-indole-3-carbonyl)amino-3-methylbutanoate (other names:
 7957 MMB-FUBICA, AMB-FUBICA);
 7958 Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022,
 7959 MMB-4en-PICA);
 7960 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);
 7961 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name:
 7962 5-fluoro-MPP-PICA);
 7963 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name:
 7964 ADB-BUTINACA);
 7965 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name:
 7966 5-chloro-AB-PINACA);
 7967 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (other names:
 7968 5F-CUMYL-PINACA, 5-fluoro CUMYL-PINACA, CUMYL-5F-PINACA);
 7969 Ethyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names:
 7970 5F-EDMB-PINACA, 5-fluoro EDMB-PINACA);
 7971 Ethyl-2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3-methylbutanoate (other names:
 7972 5-fluoro-EMB-PINACA, 5F-AEB);
 7973 Ethyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name:
 7974 5-fluoro-EMB-PICA);
 7975 Ethyl-2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-fluoro
 7976 EDMB-PICA);
 7977 Methyl 2-[1-(4-fluorobutyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name:
 7978 4-fluoro-MDMB-BUTICA);
 7979 Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (other names:
 7980 MDMB-CHMICA, MMB-CHMINACA);
 7981 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-enyl)indazole-3-carboxamide (other name:
 7982 ADB-4en-PINACA).

7983 **§ 58.1-3. Secrecy of information; penalties.**

7984 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
 7985 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
 7986 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
 7987 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices
 7988 shall not divulge any information acquired by him in the performance of his duties with respect to the
 7989 transactions, property, including personal property, income or business of any person, firm or
 7990 corporation. Such prohibition specifically includes any copy of a federal return or federal return
 7991 information required by Virginia law to be attached to or included in the Virginia return. This
 7992 prohibition shall apply to any reports, returns, financial documents or other information filed with the

Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

8054 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or
8055 other similar local official who collects or administers taxes for a county, city, or town from disclosing
8056 information to nongovernmental entities with which the locality has entered into a contract to provide
8057 services that assist it in the administration of refund processing or other non-audit services related to its
8058 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
8059 local official who collects or administers taxes for a county, city, or town shall not disclose information
8060 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
8061 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that
8062 such entity agrees to abide by such obligations.

8063 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
8064 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
8065 of finance, or other similar collector of county, city, or town taxes who, for the performance of his
8066 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
8067 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
8068 of income, filing status, number and type of dependents, whether a federal earned income tax credit as
8069 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as
8070 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration
8071 of public assistance or social services benefits as defined in § 63.2-100 or child support services
8072 pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the
8073 administration of outreach and enrollment related to the federal earned income tax credit authorized in
8074 § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in
8075 § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the
8076 Commonwealth of Virginia, upon written request, the names and home addresses of those persons
8077 identified by the designated guarantor as having delinquent loans guaranteed by the designated
8078 guarantor; (iv) provide current address information upon request to state agencies and institutions for
8079 their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or
8080 district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed
8081 in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission,
8082 after entering into a written agreement, such tax information as may be necessary to facilitate the
8083 collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage
8084 Control Authority *or the Virginia Cannabis Control Authority*, upon entering into a written agreement,
8085 such tax information as may be necessary to facilitate the collection of state and local taxes and the
8086 administration of the alcoholic beverage *or cannabis* control laws; (vii) provide to the Director of the
8087 Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who
8088 owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax
8089 information as may be necessary to facilitate the location of owners and holders of unclaimed property,
8090 as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a
8091 written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees
8092 administered by the Commission; (x) provide to the Executive Director of the Potomac and
8093 Rappahannock Transportation Commission for his confidential use such tax information as may be
8094 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the
8095 Commissioner of the Department of Agriculture and Consumer Services such tax information as may be
8096 necessary to identify those applicants for registration as a supplier of charitable gaming supplies who
8097 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing
8098 and Community Development for its confidential use such tax information as may be necessary to
8099 facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270
8100 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and
8101 address information to private collectors entering into a written agreement with the Tax Commissioner,
8102 for their confidential use when acting on behalf of the Commonwealth or any of its political
8103 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private
8104 collector who has used or disseminated in an unauthorized or prohibited manner any such information
8105 previously provided to such collector; (xiv) provide current name and address information as to the
8106 identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
8107 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for
8108 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or
8109 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering
8110 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid
8111 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource
8112 Management, upon entering into a written agreement, such tax information as may be necessary to
8113 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings
8114 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any
8115 other officer of any county, city, or town performing any or all of the duties of a commissioner of the

revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for

taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information

8177 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
8178 of performing his duties to the commissioner of the revenue or other assessing official for such
8179 jurisdiction for use by such commissioner or other official in performing assessments.

8180 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
8181 motor vehicle local license decal the year, make, and model and any other legal identification
8182 information about the particular motor vehicle for which that local license decal is assigned.

8183 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
8184 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
8185 written request, the name, address, and social security number of a taxpayer, necessary for the
8186 performance of the Commissioner's official duties regarding the administration and enforcement of laws
8187 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
8188 Commissioner or his agent that may be deemed taxpayer information shall not relieve the Commissioner
8189 of the obligations under this section.

8190 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
8191 confidential tax document that he knows or has reason to know is a confidential tax document. A
8192 confidential tax document is any correspondence, document, or tax return that is prohibited from being
8193 divulged by subsection A, B, C, or D and includes any document containing information on the
8194 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
8195 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
8196 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
8197 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

8198 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

8199 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic
8200 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine
8201 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the
8202 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department
8203 may allow any sworn law-enforcement officer, deputy, or regional jail officer, a local fire department
8204 may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any
8205 law-enforcement officer, any institution of higher education named in § 23.1-1100 may allow any
8206 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1,
8207 retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with
8208 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
8209 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as
8210 a result of a service-incurred disability or who is receiving long-term disability payments for a
8211 service-incurred disability with no expectation of returning to the employment where he incurred the
8212 disability to purchase the service handgun issued or previously issued to him by the agency or institution
8213 at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be
8214 substituted for that weapon. This privilege shall also extend to any former Superintendent of ~~the~~
8215 ~~Department of State Police~~ who leaves service after a minimum of five years. This privilege shall also
8216 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of
8217 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this
8218 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the
8219 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency
8220 head, be sold to the officer subject to the qualifications of this section at a fair market price determined
8221 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular
8222 hardware or sporting goods store by a private citizen without restrictions other than the instant
8223 background check.

8224 B. The agencies listed in subsection A may allow any sworn law-enforcement officer who retires
8225 with five or more years of service, but less than 10, to purchase the service handgun issued to him by
8226 the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement.
8227 Any sworn law-enforcement officer employed by any of the agencies listed in subsection A who is
8228 retired for disability as a result of a nonservice-incurred disability may purchase the service handgun
8229 issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the
8230 officer's retirement. Determinations of fair market value may be made by reference to a recognized
8231 pricing guide.

8232 C. The agencies listed in subsection A may allow the immediate survivor of any sworn
8233 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least
8234 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

8235 D. The governing board of any institution of higher ~~learning~~ education named in § 23.1-1100 may
8236 allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
8237 Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price
8238 equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of

fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

- 13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection

8300 with a consumer transaction;

8301 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
8302 3.2-6516, or 3.2-6519 is a violation of this chapter;

8303 16. Failing to disclose all conditions, charges, or fees relating to:

8304 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
8305 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
8306 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
8307 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
8308 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
8309 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account
8310 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.
8311 In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any
8312 refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision
8313 does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise
8314 reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser
8315 has requested the supplier to order merchandise of a specific or unusual size, color, or brand not
8316 ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a
8317 transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in §
8318 46.2-100;

8319 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time
8320 of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
8321 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill
8322 of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches
8323 the agreement;

8324 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess
8325 of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment
8326 on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of
8327 receiving overpayments. If the credit balance information is incorporated into statements of account
8328 furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

8329 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
8330 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
8331 agreement;

8332 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

8333 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
8334 seq.);

8335 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
8336 seq.);

8337 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
8338 (§ 59.1-207.17 et seq.);

8339 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

8340 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
8341 (§ 59.1-424 et seq.);

8342 24. Violating any provision of § 54.1-1505;

8343 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
8344 17.6 (§ 59.1-207.34 et seq.);

8345 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

8346 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

8347 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

8348 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
8349 seq.);

8350 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
8351 seq.);

8352 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

8353 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

8354 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

8355 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

8356 35. Using the consumer's social security number as the consumer's account number with the supplier,
8357 if the consumer has requested in writing that the supplier use an alternate number not associated with
8358 the consumer's social security number;

8359 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

8360 37. Violating any provision of § 8.01-40.2;

8361 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

- 8362 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 8363 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 8364 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46
- 8365 (§ 59.1-525 et seq.);
- 8366 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 8367 43. Violating any provision of § 59.1-443.2;
- 8368 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 8369 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 8370 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 8371 47. Violating any provision of § 18.2-239;
- 8372 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 8373 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 8374 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 8375 presumption that a supplier has reason to know a children's product was recalled if notice of the recall
- 8376 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale
- 8377 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to
- 8378 children's products that are used, secondhand or "seconds";
- 8379 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 8380 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 8381 52. Violating any provision of § 8.2-317.1;
- 8382 53. Violating subsection A of § 9.1-149.1;
- 8383 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
- 8384 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
- 8385 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
- 8386 which defective drywall has been permanently installed or affixed;
- 8387 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
- 8388 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in
- 8389 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
- 8390 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
- 8391 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 8392 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 8393 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 8394 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 8395 59. Violating any provision of subsection E of § 32.1-126;
- 8396 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed
- 8397 under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 8398 61. Violating any provision of § 2.2-2001.5;
- 8399 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 8400 63. Violating any provision of § 6.2-312;
- 8401 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 8402 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 8403 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 8404 67. Knowingly violating any provision of § 8.01-27.5;
- 8405 68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good
- 8406 or service as required by § 59.1-207.46;
- 8407 69. Selling or offering for sale to a person younger than 21 years of age any substance intended for
- 8408 human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
- 8409 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
- 8410 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
- 8411 permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;
- 8412 70. Selling or offering for sale any substance intended for human consumption, orally or by
- 8413 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
- 8414 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
- 8415 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to
- 8416 persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of
- 8417 such substance that constitutes a single serving, and (d) the total percentage and milligrams of
- 8418 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol
- 8419 that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an
- 8420 independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International
- 8421 Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol
- 8422 concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the

substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under *Subtitle II* (§ 4.1-600 et seq.) of *Title 4.1* or Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia (§ 54.1-3442.5 et seq.) of the *Drug Control Act*;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; and

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.

A. As used in this section:

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or *special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6* (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and

5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including guidelines on release of past or contemporaneous medical records.

C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

E. Each fire basic training program conducted or administered by the Department of Fire Programs or a municipal fire department in the Commonwealth shall provide, in consultation with the Department of Behavioral Health and Developmental Services, resilience and self-care technique training for any individual who begins basic training as a firefighter on or after July 1, 2021.

§ 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 any of the following persons who have completed five years of service in their position as (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 Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 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) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, 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, breast, colon, brain, or testicular 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,

8546 commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of
8547 State Police, or full-time sworn member of the enforcement division of the Department of Motor
8548 Vehicles having completed five years of service shall be presumed to be an occupational disease,
8549 suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a
8550 preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the
8551 presumption shall not apply for any individual who was diagnosed with such a condition before July 1,
8552 2020.

8553 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to
8554 invoke them have, if requested by the private employer, appointing authority or governing body
8555 employing them, undergone preemployment physical examinations that (i) were conducted prior to the
8556 making of any claims under this title that rely on such presumptions, (ii) were performed by physicians
8557 whose qualifications are as prescribed by the private employer, appointing authority or governing body
8558 employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the
8559 private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such
8560 persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such
8561 examinations.

8562 E. Persons making claims under this title who rely on such presumptions shall, upon the request of
8563 private employers, appointing authorities or governing bodies employing such persons, submit to
8564 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or
8565 their representatives and (ii) consisting of such tests and studies as may reasonably be required by such
8566 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the
8567 election of such claimant, be present at such examination.

8568 F. Whenever a claim for death benefits is made under this title and the presumptions of this section
8569 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private
8570 employer, appointing authority or governing body that had employed the deceased, submit the body of
8571 the deceased to a postmortem examination as may be directed by the Commission. A qualified
8572 physician, selected and compensated by the person entitled to make the claim, may, at the election of
8573 such claimant, be present at such postmortem examination.

8574 G. Volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and
8575 reserve police are not included within the coverage of this section.

8576 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to
8577 § 10.1-1135 and any persons who are employed by or contract with private employers primarily to
8578 perform firefighting services.

8579 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

8580 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health
8581 condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter,
8582 or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers'
8583 Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy
8584 sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or
8585 deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation
8586 police officer who is a full-time sworn member of the enforcement division of the Department of
8587 Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage
8588 Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or *special*
8589 *agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6*
8590 *(§ 4.1-600 et seq.) of Title 4.1*; (xi) for such period that the Metropolitan Washington Airports Authority
8591 voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the
8592 police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer
8593 of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation
8594 officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv)
8595 sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus
8596 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by
8597 any public institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii)
8598 full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a
8599 documented occupational exposure to blood or body fluids shall be presumed to be occupational
8600 diseases, suffered in the line of government duty, that are covered by this title unless such presumption
8601 is overcome by a preponderance of competent evidence to the contrary. For purposes of this subsection,
8602 an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the
8603 person covered under this subsection gave notice, written or otherwise, of the occupational exposure to
8604 his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed
8605 "documented" without regard to whether the person gave notice, written or otherwise, of the
8606 occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time
8607 sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall

not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subdivision F 2.

2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, 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, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control *and Prevention*, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

2. The presumptions described in subdivision B 1 shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions described in subdivision B 1.

F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the 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 appointing authority or governing body employing such persons; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or

8669 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective
8670 until six months following such examinations, unless such persons entitled to invoke such presumption
8671 can demonstrate a documented exposure during the six-month period.

8672 2. The presumptions described in subdivision B 1 shall apply to any person entitled to invoke them
8673 for any death or disability occurring on or after March 12, 2020, caused by infection from the
8674 COVID-19 virus, provided that for any such death or disability that occurred on or after March 12,
8675 2020, and prior to December 31, 2022, and;

8676 a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed
8677 physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a
8678 laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that
8679 required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required
8680 medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

8681 b. On or after July 1, 2020, and prior to December 31, 2022, the claimant received a positive
8682 diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a
8683 presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and
8684 symptoms of COVID-19 that required medical treatment.

8685 3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them
8686 for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19
8687 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to
8688 December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after
8689 either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs
8690 and symptoms of COVID-19 that required medical treatment.

8691 G. Persons making claims under this title who rely on such presumption shall, upon the request of
8692 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)
8693 conducted by physicians selected by such appointing authorities or governing bodies or their
8694 representative and (ii) consisting of such tests and studies as may reasonably be required by such
8695 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the
8696 election of such claimant, be present at such examination.

8697 2. That Article 30 (§§ 2.2-2499.5 through 2.2-2499.8) of Chapter 24 of Title 2.2, Article 5
8698 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2, §§ 4.1-1101.1 and 4.1-1105.1,
8699 Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1, and §§ 18.2-248.1 and 18.2-251.1 of the
8700 Code of Virginia are repealed.

8701 3. That the sixteenth enactment of Chapter 550 and the sixteenth enactment of Chapter 551 of the
8702 Acts of Assembly of 2021, Special Session I, are repealed. The provisions of this enactment shall
8703 become effective in due course.

8704 4. That, except as provided in the third, fifth, sixth, seventh, eighth, and ninth enactments of this
8705 act, the provisions of this act shall become effective on January 1, 2025.

8706 5. That the provisions of §§ 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-614, 4.1-620, 4.1-1101,
8707 4.1-1105.1, and 4.1-1121 of the Code of Virginia, as amended by this act; §§ 4.1-629 and 22.1-141.3
8708 of the Code of Virginia, as created by this act; and Article 30 (§§ 2.2-2499.5 through 2.2-2499.8) of
8709 Chapter 24 of Title 2.2 and Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1 of the Code of
8710 Virginia, as repealed by this act, shall become effective in due course.

8711 6. That, subject to the provisions of the seventh enactment of this act, the provisions of (i)
8712 §§ 4.1-630 and 4.1-631 of the Code of Virginia, as created by this act, and (ii) Chapter 7 (§ 4.1-700
8713 et seq.), Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10 (§ 4.1-1000 et
8714 seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1 of the Code
8715 of Virginia, as created by this act, shall become effective on January 1, 2024.

8716 7. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications
8717 for and issuing licenses pursuant to the provisions of § 4.1-1000 of the Code of Virginia, as created
8718 by this act, on January 1, 2024; however, no license authorized by this act shall be granted prior
8719 to July 1, 2029, to any person who was a member of the General Assembly on January 12, 2023.
8720 Notwithstanding the fourth enactment of this act, any applicant issued a license by the Authority
8721 may operate in accordance with the provisions of this act prior to January 1, 2025; however, prior
8722 to January 1, 2025, no licensee may engage in the retail sale of retail marijuana, retail marijuana
8723 products, immature marijuana plants, or marijuana seeds. Notwithstanding any other provision of
8724 law, on or after January 1, 2024, and prior to January 1, 2025, no marijuana cultivation facility
8725 licensee, marijuana processing facility licensee, marijuana transporter licensee, retail marijuana
8726 store licensee, or marijuana testing facility licensee or agent or employee of any of the foregoing
8727 shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title
8728 4.1 of the Code of Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258,
8729 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this act, or §
8730 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such violation is

related to acts committed within the scope of the licensure or employment and in accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. From January 1, 2024, to July 1, 2029, the Authority shall reserve license slots for all pharmaceutical processors that have been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act and issue a cultivation, processing, transporter, and retail license to any such pharmaceutical processor that meets the applicable licensing requirements. The Authority shall ensure that geographic dispersion is achieved regarding the issuance of retail marijuana store licenses and shall reassess the issuance of retail marijuana store licenses at the following intervals to ensure that geographic dispersion is maintained after issuance of 100 licenses, 200 licenses, and 300 licenses and as otherwise necessary. The Board of Directors of the Authority (the Board) shall not permit any marijuana cultivation facility licensee to engage in the outdoor growth of marijuana plants until the Board has promulgated regulations governing outdoor growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act. The provisions of this enactment shall become effective in due course.

8. That the provisions of Article 6 (§ 3.2-5145.6 et seq.) of Chapter 51 of Title 3.2 of the Code of Virginia, as created by this act, and Article 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2 of the Code of Virginia (Article 5), as repealed by this act, shall become effective on the earlier of (i) the promulgation by the Board of Directors of the Virginia Cannabis Control Authority (the Board) of final regulations governing regulated hemp products pursuant to § 4.1-606 of the Code of Virginia, as amended by this act, or (ii) July 1, 2024. Any regulation promulgated by the Department of Agriculture and Consumer Services pursuant to Article 5, as repealed by this act, shall remain in full force and effect and continue to be administered by the Department of Agriculture and Consumer Services until the effective date of the repeal of Article 5 pursuant to this enactment and shall continue to remain in full force and effect and be administered by the Board until the Board promulgates regulations pursuant to this act.

9. That the Virginia Cannabis Control Authority (the Authority) shall analyze whether any limits should be placed on the number of licenses issued to operate a marijuana establishment and report its finding to the General Assembly by November 1, 2023. The provisions of this enactment shall become effective in due course.

10. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.