

HOUSE BILL NO. 2312**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on Rehabilitation and Social Services
on February 12, 2021)

(Patrons Prior to Substitute--Delegates Herring and Heretick [HB 1815])

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, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective, 4.1-206, 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-207, 4.1-207.1, 4.1-208, 4.1-212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and as it shall become effective, 4.1-231, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-320, 4.1-323, 4.1-324, 4.1-325, as it is currently effective and as it shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 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, 15.2-1627, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 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, 18.2-251.02, 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, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 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, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.2, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 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 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, 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 Title 4.1 a subtitle numbered II, containing chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, by adding in Chapter 7 of Title 18.2 an article numbered 1.4, consisting of sections numbered 18.2-265.22 through 18.2-265.28, by adding a section numbered 19.2-392.2:1, and by adding a section numbered 46.2-341.20:7; and to repeal §§ 18.2-248.1, 18.2-250.1, 18.2-251.1, and 19.2-389.3 of the Code of Virginia, relating to marijuana; legalization of simple possession; penalties.

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, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently

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 56 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently
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 60 effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337,
 61 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 5.1-13, 9.1-101, as it is currently
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 63 69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-
 64 273, 16.1-278.8:01, 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-
 65 251.02, 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,
 66 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,
 67 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66,
 68 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389,
 69 as it is currently effective and as it shall become effective, 19.2-392.02, as it is currently effective and as
 70 it shall become effective, 19.2-392.1, 19.2-392.2, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301,
 71 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6,
 72 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the
 73 Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections
 74 numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by
 75 adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an
 76 article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1
 77 a subtitle numbered II, containing chapters numbered 6 through 15, consisting of sections numbered 4.1-
 78 600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, by
 79 adding in Chapter 7 of Title 18.2 an article numbered 1.4, consisting of sections numbered 18.2-265.22
 80 through 18.2-265.28, by adding a section numbered 19.2-392.2:1, and by adding a section numbered 46.2-
 81 341.20:7 as follows:

82 **§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

148 **§ 2.2-507. Legal service in civil matters.**

149 A. All legal service in civil matters for the Commonwealth, the Governor, and every state department,
150 institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct
151 of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney

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

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

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

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

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

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

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

177 6. Persons employed by the Commissioner of Motor Vehicles;

178 7. Persons appointed by the Commissioner of Marine Resources;

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

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

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

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

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

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

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

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

197 C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to
198 be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose
199 compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid
200 out of the funds appropriated for the administration of the board, commission, division, or department being
201 represented or whose members, officers, inspectors, investigators, or other employees are being represented

202 pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may
203 employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

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

205 **§ 2.2-511. Criminal cases.**

206 A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to
207 institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving
208 (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.) or the Cannabis Control Act (§ 4.1-600
209 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii)
210 violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau,
211 institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws
212 involving child pornography and sexually explicit visual material involving children, (vii) the practice of law
213 without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-
214 1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia
215 Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the
216 Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste
217 Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the
218 concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-
219 22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause
220 (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations
221 by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-
222 512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney
223 for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as
224 appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth,
225 violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local
226 attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv)
227 with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of
228 § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional
229 facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution
230 of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

231 In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of
232 the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for
233 appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In
234 all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or
235 is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case
236 in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to
237 represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

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

249 **§ 2.2-1119. Cases in which purchasing through Division not mandatory.**

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

- 252 1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and
 253 materials;
- 254 2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The
 255 Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;
- 256 3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered
 257 perishable within the meaning of this subdivision, unless so classified by the Division;
- 258 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this
 259 exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and
 260 coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;
- 261 5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control Authority *or the*
 262 *Virginia Cannabis Control Authority*, including office stationery and supplies, office equipment, and janitorial
 263 equipment and supplies; however, coal and fuel oil for heating purposes shall not be included except when
 264 authorized in writing by the Division;
- 265 6. Binding and rebinding of the books and other literary materials of libraries operated by the
 266 Commonwealth or under its authority;
- 267 7. Printing of the records of the Supreme Court; and
- 268 8. Financial services, including without limitation, underwriters, financial advisors, investment advisors
 269 and banking services.
- 270 B. Telecommunications and information technology goods and services of every description shall be
 271 procured as provided by § 2.2-2012.

272 *Article 29.*

273 *Cannabis Equity Reinvestment Board.*

274 **§ 2.2-2499.1. Cannabis Equity Reinvestment Board; purpose; membership; quorum; meetings.**

275 A. *The Cannabis Equity Reinvestment Board (the Board) is established as a policy board in the executive*
 276 *branch of state government. The purpose of the Board is to directly address the impact of economic*
 277 *disinvestment, violence, and historical overuse of criminal justice responses to community and individual needs*
 278 *by providing resources to support local design and control of community-based responses to such impacts.*

279 B. *The Board shall have a total membership of 20 members that shall consist of 13 nonlegislative citizen*
 280 *members and seven ex officio members. Nonlegislative citizen members shall be appointed as follows: four to*
 281 *be appointed by the Senate Committee on Rules, one of whom shall be a person who has been previously*
 282 *incarcerated or convicted of a marijuana-related crime, one of whom shall be an expert in the field of public*
 283 *health with experience in trauma-informed care, if possible, one of whom shall be an expert in education with*
 284 *a focus on access to opportunities for youth in underserved communities, and one of whom shall be an expert*
 285 *on Virginia's foster care system; four to be appointed by the Speaker of the House of Delegates, one of whom*
 286 *shall be an expert in workforce development, one of whom shall be a representative from one of Virginia's*
 287 *historically black colleges and universities, one of whom shall be a veteran, and one of whom shall be an*
 288 *entrepreneur with expertise in emerging industries or access to capital for small businesses; and five to be*
 289 *appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a*
 290 *representative from the Virginia Indigent Defense Commission and four of whom shall be community-based*
 291 *providers or community development organization representatives who provide services to address the social*
 292 *determinants of health and promote community investment in communities adversely and disproportionately*
 293 *impacted by marijuana prohibitions, including services such as workforce development, youth mentoring and*
 294 *educational services, job training and placement services, and reentry services. Nonlegislative citizen members*
 295 *shall be citizens of the Commonwealth and reflect the racial, ethnic, and gender diversity of the Commonwealth.*

296 *The Secretaries of Education, Health and Human Resources, and Public Safety and Homeland Security,*
 297 *the Director of Diversity, Equity, and Inclusion, the Chief Workforce Development Advisor, and the Attorney*
 298 *General or their designees shall serve ex officio with voting privileges. The Chief Executive Officer of the*
 299 *Virginia Cannabis Control Authority or his designee shall serve ex officio without voting privileges.*

300 *Ex officio members of the Board shall serve terms coincident with their terms of office. After the initial*
 301 *staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments*

302 to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled
303 in the same manner as the original appointments. All members may be reappointed.

304 The Board shall be chaired by the Director of Diversity, Equity, and Inclusion or his designee. The Board
305 shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum.
306 The Board shall meet at least two times each year and shall meet at the call of the chairman or whenever the
307 majority of the members so request.

308 **§ 2.2-2499.2. Compensation; expenses.**

309 Members shall receive no compensation for the performance of their duties but shall be reimbursed for all
310 reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and
311 2.2-2825.

312 **§ 2.2-2499.3. Powers and duties of the Board.**

313 The Cannabis Equity Reinvestment Board shall have the following powers and duties:

314 1. Develop and implement scholarship programs and educational and vocational resources for historically
315 marginalized youth, including youth in foster care, who have been adversely impacted by substance use
316 individually, in their families, or in their communities.

317 2. Develop and implement a program to award grants to support workforce development programs, youth
318 mentoring programs, job training and placement services, and reentry services that serve communities
319 historically and disproportionately targeted by drug enforcement.

320 3. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4.

321 4. Collaborate with the Board of Directors of the Virginia Cannabis Control Authority and the Office of
322 Diversity, Equity, and Inclusion as necessary to implement programs and provide recommendations in line with
323 the purpose of this article.

324 5. Submit an annual report to the Governor and the General Assembly for publication as a report document
325 as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative
326 documents and reports. The chairman shall submit to the Governor and the General Assembly an annual
327 executive summary of the interim activity and work of the Council no later than the first day of each regular
328 session of the General Assembly. The executive summary shall be submitted as a report document as provided
329 in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents
330 and reports and shall be posted on the General Assembly's website.

331 6. Perform such other activities and functions as the Governor and General Assembly may direct.

332 **§ 2.2-2499.4. Cannabis Equity Reinvestment Fund.**

333 There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis
334 Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the books
335 of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and
336 other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned
337 on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
338 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
339 the Fund. Moneys in the Fund shall be used solely for the purposes of:

340 1. Making whole again families and communities historically and disproportionately targeted and affected
341 by drug enforcement;

342 2. Providing scholarships for the historically marginalized population of youth, particularly in underserved
343 communities, who have been adversely impacted by substance abuse individually or within their families or
344 communities, including the experience of incarceration of a family member convicted of a marijuana offense;

345 3. Awarding grants to support workforce development, youth mentoring programs, job training and
346 placement efforts, and reentry services that serve persons residing in areas disproportionately impacted by
347 drug enforcement;

348 4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and

349 5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.

350 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
351 by the Comptroller upon written request signed by the Director of Diversity, Equity, and Inclusion.

352 § 2.2-2818. Health and related insurance for state employees.

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

363 Such contribution shall be financed through appropriations provided by law.

364 B. The plan shall:

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

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

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

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

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

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

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

392 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the
393 resolution of such complaints and shall be published and disseminated to all covered state employees. The
394 appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured
395 governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure
396 that shall provide resolution within time frames established by federal law. For appeals involving adverse
397 decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review
398 organizations to review such decisions. Independent review organizations are entities that conduct independent
399 external review of adverse benefit determinations. The Department shall adopt regulations to assure that the
400 independent review organization conducting the reviews has adequate standards, credentials and experience for
401 such review. The independent review organization shall examine the final denial of claims to determine whether

402 the decision is objective, clinically valid, and compatible with established principles of health care. The decision
403 of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material
404 issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

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

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

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

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

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

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

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

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

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

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

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

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

481 14. Include provisions allowing employees to continue receiving health care services for a period of up to
482 90 days from the date of the primary care physician's notice of termination from any of the plan's provider
483 panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except
484 when the provider is terminated for cause.

485 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
486 provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to
487 render health care services to any of the covered employees who (i) were in an active course of treatment from
488 the provider prior to the notice of termination and (ii) request to continue receiving health care services from
489 the provider.

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

495 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering
496 health services to any covered employee who is determined to be terminally ill (as defined under §
497 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when
498 a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the
499 remainder of the employee's life for care directly related to the treatment of the terminal illness.

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

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

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

509 For purposes of this subdivision:

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

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

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

519 "NCI" means the National Cancer Institute.

520 "NIH" means the National Institutes of Health.

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

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

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

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

531 a. The National Cancer Institute;

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

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

534 d. The federal Department of Veterans Affairs; or

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

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

539 Coverage under this subdivision shall apply only if:

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

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

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

546 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered
547 employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee
548 following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines.
549 Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the

550 attending physician, in consultation with the covered employee, determines that a shorter hospital stay is
551 appropriate.

552 17. Include coverage for biologically based mental illness.

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

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

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

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

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

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

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

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

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

610 D. For the purposes of this section:

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

617 "Standard reference compendia" means:

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

621 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the
622 Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks and
623 deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district
624 courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the
625 University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health
626 System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control
627 Authority as provided in § 4.1-101.05 *and the Virginia Cannabis Control Authority as provided in § 4.1-623.*

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

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

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

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

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

644 H. Any self-insured group health insurance plan established by the Department of Human Resource
645 Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the
646 prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and
647 updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a

majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

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

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

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

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

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

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

The Ombudsman shall:

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

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

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

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

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

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

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only 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.

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

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

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

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

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

726 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

727 The provisions of this chapter shall not apply to:

- 728 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 729 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 730 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house
731 thereof is required or not;
- 732 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 733 5. Members of boards and commissions however selected;
- 734 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts,
735 and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
- 736 7. Officers and employees of the General Assembly and persons employed to conduct temporary or special
737 inquiries, investigations, or examinations on its behalf;
- 738 8. The presidents and teaching and research staffs of state educational institutions;
- 739 9. Commissioned officers and enlisted personnel of the National Guard;
- 740 10. Student employees at institutions of higher education and patient or inmate help in other state
741 institutions;
- 742 11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees
743 compensated on an hourly or daily basis;
- 744 12. County, city, town, and district officers, deputies, assistants, and employees;
- 745 13. The employees of the Virginia Workers' Compensation Commission;
- 746 14. The officers and employees of the Virginia Retirement System;

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

752 16. Employees of the Virginia Lottery;

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

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

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

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

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

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

768 23. Employees of the Virginia College Savings Plan;

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

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

776 26. Employees of the Virginia Indigent Defense Commission;

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

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

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

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

784 **§ 2.2-3114. Disclosure by state officers and employees.**

785 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor,
786 Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court,
787 judges and substitute judges of any district court, members of the State Corporation Commission, members of
788 the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board,
789 members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the
790 Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia Cannabis*
791 *Control Authority*, members of the Board of the Virginia College Savings Plan, and members of the Virginia
792 Lottery Board and other persons occupying such offices or positions of trust or employment in state
793 government, including members of the governing bodies of authorities, as may be designated by the Governor,
794 or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the
795 General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure

796 statement of their personal interests and such other information as is required on the form prescribed by the
797 Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

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

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

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

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

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

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

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

846 § 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

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

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

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

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

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

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

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

880 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
881 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public
882 Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in
883 § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower
884 Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation
885 initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§
886 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of
887 higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant
888 to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a
889 school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any
890 officer, department, or program of such body. Information contained in completed investigations shall be
891 disclosed in a form that does not reveal the identity of the complainants or persons supplying information to
892 investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the
893 agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and
894 the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of

895 the person who is the subject of the complaint may be released only with the consent of the subject person.
896 Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

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

901 9. Records of active investigations being conducted by the Department of Criminal Justice Services
902 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.), and
903 Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

904 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-
905 253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized
906 alteration, or improper administration of tests by local school board employees responsible for the distribution
907 or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i)
908 a local school board or division superintendent for the purpose of permitting such board or superintendent to
909 consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a
910 review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or
911 supplying information to the Board on a confidential basis and (b) does not compromise the security of any test
912 mandated by the Board.

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

929 12. Information provided in confidence and related to an investigation by the Attorney General under
930 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-
931 246.6 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
932 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six
933 months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does
934 not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other
935 individuals involved in the investigation.

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

938 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

940 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
941 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
942 officers, appointees, or employees of any public body; and evaluation of performance of departments or schools
943 of public institutions of higher education where such evaluation will necessarily involve discussion of the
944 performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in

945 which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student
946 and the student involved in the matter is present, provided the teacher makes a written request to be present to
947 the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to
948 authorize a closed meeting by a local governing body or an elected school board to discuss compensation
949 matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

977 9. Discussion or consideration by governing boards of public institutions of higher education of matters
978 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
979 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
980 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
981 institution of higher education in the Commonwealth shall be subject to public disclosure upon written request
982 to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any
983 government other than the United States government or the government of a state or a political subdivision
984 thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of
985 any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments
986 or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or
987 foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means
988 any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

- 995 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
996 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by
997 the member, provided the member may request in writing that the committee meeting not be conducted in a
998 closed meeting.
- 999 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
1000 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
1001 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
1002 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
1003 All discussions with the applicant or its representatives may be conducted in a closed meeting.
- 1004 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity
1005 and estimating general and nongeneral fund revenues.
- 1006 16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision
1007 1 of § 2.2-3705.5.
- 1008 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1009 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
1010 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information
1011 and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11
1012 of § 2.2-3705.7.
- 1013 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
1014 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
1015 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of
1016 an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services,
1017 the disclosure of which is likely to jeopardize the prisoner's life or safety.
- 1018 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
1019 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
1020 service officials concerning actions taken to respond to such matters or a related threat to public safety;
1021 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
1022 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
1023 information technology system, or software program; or discussion of reports or plans related to the security of
1024 any governmental facility, building or structure, or the safety of persons using such facility, building or
1025 structure.
- 1026 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any
1027 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust
1028 established by one or more local public bodies to invest funds for postemployment benefits other than pensions,
1029 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
1030 University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan,
1031 acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership
1032 interest in an entity, where such security or ownership interest is not traded on a governmentally regulated
1033 securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board
1034 of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of
1035 trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or
1036 board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value
1037 of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse
1038 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local
1039 finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College
1040 Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to
1041 the identity of any investment held, the amount invested or the present value of such investment.
- 1042 21. Those portions of meetings in which individual child death cases are discussed by the State Child
1043 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
1044 child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-

1045 283.2, those portions of meetings in which individual death cases are discussed by family violence fatality
1046 review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death
1047 cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions
1048 of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team
1049 established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed
1050 by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which
1051 individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8,
1052 and those portions of meetings in which individual death cases of persons with developmental disabilities are
1053 discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1054 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia
1055 Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom
1056 management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School,
1057 as the case may be, have been delegated, in which there is discussed proprietary, business-related information
1058 pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School,
1059 as the case may be, including business development or marketing strategies and activities with existing or future
1060 joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern
1061 Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health
1062 care, if disclosure of such information would adversely affect the competitive position of the Medical Center
1063 or Eastern Virginia Medical School, as the case may be.

1064 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the
1065 board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition
1066 by the Authority of real property, equipment, or technology software or hardware and related goods or services,
1067 where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters
1068 relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or
1069 work to be performed by the Authority; marketing or operational strategies plans of the Authority where
1070 disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and
1071 members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

1072 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
1073 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
1074 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1075 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal
1076 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
1077 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
1078 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1079 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
1080 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-
1081 484.12, related to the provision of wireless E-911 service.

1082 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1083 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
1084 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings
1085 of health regulatory boards or conference committees of such boards to consider settlement proposals in pending
1086 disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

1087 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
1088 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800,
1089 or any independent review panel appointed to review information and advise the responsible public entity
1090 concerning such records.

1091 29. Discussion of the award of a public contract involving the expenditure of public funds, including
1092 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an
1093 open session would adversely affect the bargaining position or negotiating strategy of the public body.

- 1094** 30. Discussion or consideration of grant or loan application information subject to the exclusion in
1095 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.
- 1096** 31. Discussion or consideration by the Commitment Review Committee of information subject to the
1097 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
1098 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.
- 1099** 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
1100 held by a local public body providing certain telecommunication services or cable television services and
1101 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision
1102 shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).
- 1103** 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
1104 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject
1105 to the exclusion in subdivision 19 of § 2.2-3705.6.
- 1106** 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
1107 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.
- 1108** 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
1109 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject
1110 to the exclusion in subdivision B 1 of § 2.2-3706.
- 1111** 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information
1112 or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the
1113 Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship
1114 applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.
- 1115** 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
1116 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
1117 Authority.
- 1118** 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant
1119 to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local
1120 retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting
1121 pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed
1122 pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.
- 1123** 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
1124 related to economic development.
- 1125** 40. Discussion or consideration by the Board of Education of information relating to the denial, suspension,
1126 or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.
- 1127** 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
1128 executive order for the purpose of studying and making recommendations regarding preventing closure or
1129 realignment of federal military and national security installations and facilities located in Virginia and relocation
1130 of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing
1131 body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.
- 1132** 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1133 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1134 information of donors.
- 1135** 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information
1136 subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant
1137 applications.
- 1138** 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
1139 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
1140 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
1141 information of a private entity provided to the Authority.
- 1142** 45. Discussion or consideration of personal and proprietary information related to the resource management
1143 plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-

1144 104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that
1145 has been certified for release by the person who is the subject of the information or transformed into a statistical
1146 or aggregate form that does not allow identification of the person who supplied, or is the subject of, the
1147 information.

1148 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
1149 Authority *or the Board of Directors of the Virginia Cannabis Control Authority* of information subject to the
1150 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and
1151 of licensees and permittees.

1152 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in
1153 subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of
1154 Chapter 22.

1155 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
1156 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
1157 Board.

1158 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
1159 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
1160 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases
1161 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
1162 63.2-1605.

1163 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority,
1164 the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the
1165 strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-
1166 3705.7.

1167 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
1168 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
1169 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

1170 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
1171 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
1172 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1173 53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-
1174 4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration,
1175 or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

1176 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
1177 the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any
1178 discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure
1179 under subdivision 1 of § 2.2-3705.3.

1180 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
1181 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and
1182 takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall
1183 have its substance reasonably identified in the open meeting.

1184 C. Public officers improperly selected due to the failure of the public body to comply with the other
1185 provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain
1186 notice of the legal defect in their election.

1187 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
1188 public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding
1189 closed meetings as are applicable to any other public body.

1190 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
1191 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
1192 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development
1193 and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds

1194 by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such
1195 business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of
1196 the board's authorization of the sale or issuance of such bonds.

1197 **§ 2.2-3802. Systems to which chapter inapplicable.**

1198 The provisions of this chapter shall not apply to personal information systems:

1199 1. Maintained by any court of the Commonwealth;

1200 2. Which may exist in publications of general circulation;

1201 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the
1202 Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to
1203 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the
1204 Internet pursuant to § 9.1-913;

1205 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-
1206 225;

1207 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to
1208 engage in the practice of any profession, in which case the names and addresses of persons applying for or
1209 possessing the license may be disseminated upon written request to a person engaged in the profession or
1210 business of offering professional educational materials or courses for the sole purpose of providing the licensees
1211 or applicants for licenses with informational materials relating solely to available professional educational
1212 materials or courses, provided the disseminating agency is reasonably assured that the use of the information
1213 will be so limited;

1214 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,
1215 the Virginia Racing Commission, ~~and~~ the Virginia Alcoholic Beverage Control Authority, *and the Virginia*
1216 *Cannabis Control Authority*;

1217 7. Maintained by any of the following and that deal with investigations and intelligence gathering related
1218 to criminal activity:

1219 a. The Department of State Police;

1220 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

1221 c. Police departments of cities, counties, and towns;

1222 d. Sheriff's departments of counties and cities;

1223 e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-
1224 809 et seq.) of Chapter 8 of Title 23.1; and

1225 f. The Division of Capitol Police.

1226 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while
1227 such cases are also subject to an ongoing criminal prosecution;

1228 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1229 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of
1230 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information
1231 on those subjects may be disseminated upon written request to a person engaged in the business of providing
1232 travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured
1233 that the use of the information will be so limited;

1234 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services
1235 and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity
1236 or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1237 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with
1238 investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et
1239 seq.);

1240 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies
1241 or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline
1242 or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals
1243 with local investigations required by § 15.2-2511.2;

1244 14. Maintained by the Department of Social Services or any local department of social services relating to
1245 public assistance fraud investigations;

1246 15. Maintained by the Department of Social Services related to child welfare or public assistance programs
1247 when requests for personal information are made to the Department of Social Services. Requests for information
1248 from these systems shall be made to the appropriate local department of social services that is the custodian of
1249 that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining
1250 information from the central registry in accordance with the provisions of § 63.2-1515; and

1251 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult
1252 protective services, or auxiliary grants when requests for personal information are made to the Department for
1253 Aging and Rehabilitative Services. Requests for information from these systems shall be made to the
1254 appropriate local department of social services that is the custodian of that record.

1255 **§ 2.2-4024. Hearing officers.**

1256 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a
1257 hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained
1258 in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings
1259 conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at
1260 the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may promulgate
1261 rules necessary for the administration of the hearing officer system and shall have the authority to establish the
1262 number of hearing officers necessary to preside over administrative hearings in the Commonwealth.

1263 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1264 1. Active membership in good standing in the Virginia State Bar;

1265 2. Active practice of law for at least five years; and

1266 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order
1267 to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive
1268 Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that
1269 agency.

1270 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the
1271 list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic
1272 preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency
1273 demonstrates the need.

1274 C. A hearing officer appointed in accordance with this section shall be subject to disqualification as
1275 provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1,
1276 the petitioning party may request reconsideration of the denial by filing a written request with the Executive
1277 Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the
1278 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of
1279 practice requiring disqualification.

1280 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1281 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case
1282 decision matter shall render that recommendation or conclusion as follows:

1283 1. If the agency's written regulations or procedures require the hearing officer to render a recommendation
1284 or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion
1285 on or before the expiration of the specified period; and

1286 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from
1287 the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

1288 If the hearing officer does not render a decision within the time required by this subsection, then the agency
1289 or the named party to the case decision may provide written notice to the hearing officer and the Executive
1290 Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the
1291 hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer
1292 from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary
1293 action, unless good cause is shown for the delay.

1294 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written
 1295 notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as
 1296 required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions
 1297 to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration,
 1298 followed by judicial review in accordance with this chapter.

1299 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the
 1300 members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia*
 1301 *Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation
 1302 Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§
 1303 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
 1304 Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board
 1305 convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the
 1306 Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia
 1307 Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum
 1308 qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the
 1309 Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in
 1310 periodic training courses.

1311 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers
 1312 conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources, the Virginia
 1313 Housing Development Authority, the Milk Commission, and the Virginia Resources Authority pursuant to their
 1314 basic laws.

1315 **§ 3.2-1010. Enforcement of chapter; summons.**

1316 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain
 1317 members of the Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*,
 1318 may enforce the provisions of this chapter and the regulations adopted hereunder as well as those who are so
 1319 designated by the Commissioner. Those designated by the Commissioner may issue a summons to any person
 1320 who violates any provision of this chapter to appear at a time and place to be specified in such summons.

1321 **§ 3.2-3906. Board to adopt regulations.**

1322 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), including:

- 1323 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
- 1324 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1325 3. Requiring reporting and record keeping related to licensing and registration;
- 1326 4. Establishing training, testing and standards for certification of commercial applicators, registered
 1327 technicians, and private applicators;
- 1328 5. Revoking, suspending or denying licenses (business), registration (products), and certification or
 1329 certificate (applicators or technicians);
- 1330 6. Requiring licensees and certificate holders to inform the public when using pesticides in and around
 1331 structures;
- 1332 7. Establishing a fee structure for licensure, registration and certification to defray the costs of implementing
 1333 this chapter;
- 1334 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such
 1335 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial, institutional,
 1336 structural or health-related pest control;
- 1337 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or residuals
 1338 that: (i) undesirably persists in the environment or increases due to biological amplification or unreasonable
 1339 adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man, animal, bird or plant
 1340 may be contrary to the public interest; ~~and~~
- 1341 10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in compliance*
 1342 *with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 or Subtitle II (§ 4.1-600 et seq.) of Title 4.1; and*
- 1343 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1344 **§ 3.2-4112. Definitions.**

1345 As used in this chapter, unless the context requires a different meaning:

1346 "Cannabis sativa product" means a product made from any part of the plant Cannabis sativa, including
1347 seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing
1348 or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

1349 "Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell such
1350 industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law or (ii)
1351 sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law.

1352 "Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial
1353 hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for
1354 personal use or retail sale in Virginia.

1355 "Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he
1356 deals.

1357 "Grow" means to plant, cultivate, or harvest a plant or crop.

1358 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

1359 "Hemp product" means ~~any finished a product that is otherwise lawful and~~ that contains industrial hemp,
1360 ~~including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an~~
1361 ~~industrial hemp extract, or food or food additives for human consumption~~ and has completed all stages of
1362 ~~processing needed for the product.~~

1363 "Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

1364 "Hemp testing laboratory" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1 to test
1365 hemp products or a marijuana testing facility as defined in § 4.1-600.

1366 "Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof ~~and any derivative,~~
1367 ~~extract, cannabinoid, isomer, acid, salt, or salt of an isomer,~~ whether growing or not, with a concentration of
1368 tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial hemp" includes an
1369 industrial hemp extract that has not completed all stages of processing needed to convert the extract into a
1370 hemp product.

1371 "Process" means to convert industrial hemp into a hemp product.

1372 "Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

1373 "Process site" means the location at which a processor processes or intends to process industrial hemp.

1374 "Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

1375 **§ 3.2-4113. Production of industrial hemp lawful.**

1376 A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent
1377 to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his
1378 agent, or processor or his agent shall be prosecuted under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-~~
1379 ~~247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1~~ for the possession, growing, dealing, or
1380 processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding
1381 brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the
1382 Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or
1383 exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception,
1384 excuse, proviso, or exemption shall be on the defendant.

1385 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

1386 C. No person shall be prosecuted under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247, 18.2-~~
1387 ~~248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1~~ for the involuntary growth of industrial hemp through
1388 the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or
1389 process site.

1390 **§ 3.2-4114. Regulations.**

1391 A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal
1392 in, or process industrial hemp or implement the provisions of this chapter.

1393 B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule
1394 regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in industrial
1395 hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department
1396 regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the
1397 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

1398 C. *The Board shall adopt regulations (i) establishing acceptable testing practices for hemp products*
1399 *intended for smoking and hemp products that are an industrial hemp extract intended for human consumption,*
1400 *(ii) identifying the contaminants for which hemp products intended for smoking and hemp products that are an*
1401 *industrial hemp extract intended for human consumption shall be tested, and (iii) establishing the maximum*
1402 *level of allowable contamination for each contaminant.*

1403 D. *The Board shall adopt regulations establishing (i) labeling and packaging requirements for a hemp*
1404 *product intended for smoking and a hemp product that is an industrial hemp extract intended for human*
1405 *consumption and (ii) advertising requirements for a hemp product intended for smoking and a hemp product*
1406 *that is an industrial hemp extract intended for human consumption.*

1407 E. *With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000*
1408 *et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations adopted*
1409 *pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the Board shall*
1410 *publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the*
1411 *Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the*
1412 *proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number*
1413 *of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60*
1414 *days in advance of the last date prescribed in such notice for submittals of public comment. The legislative*
1415 *review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process*
1416 *for regulations adopted pursuant to subsection C or D. The Board shall consider and keep on file all public*
1417 *comments received for any regulation adopted pursuant to subsection C or D.*

1418 **§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.**

1419 A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for any application for registration
1420 or license or renewal of registration or license allowed under this chapter. The Commissioner may charge a
1421 nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the
1422 Commissioner shall be deposited in the state treasury.

1423 B. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp
1424 production fields, dealerships, ~~and~~ process sites, and hemp testing laboratories.

1425 C. The Commissioner shall forward a copy or appropriate electronic record of each registration or license
1426 issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where
1427 industrial hemp will be grown, dealt, or processed or where a hemp testing laboratory will be located.

1428 D. The Commissioner shall be responsible for monitoring the industrial hemp grown, dealt, or processed
1429 by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random testing of the
1430 industrial hemp, at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits
1431 and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and
1432 sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or
1433 process site during normal business hours without advance notice if he has reason to believe a violation of this
1434 chapter is occurring or has occurred.

1435 E. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer,
1436 or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the
1437 grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to
1438 have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis
1439 sativa product that the processor produces.

1440 F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in
1441 a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act

1442 of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp
1443 in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1444 1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer,
1445 or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the
1446 grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to
1447 have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

1448 2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6
1449 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that
1450 the Cannabis sativa be sampled and tested again before he requires its destruction.

1451 G. The Commissioner shall advise the Attorney General of the United States and the Superintendent of
1452 State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental
1453 state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa
1454 with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor
1455 produces a Cannabis sativa product.

1456 H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration
1457 or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp
1458 industry.

1459 I. The Commissioner may establish a corrective action plan to address a negligent violation of any provision
1460 of this chapter.

1461 **§ 3.2-4116. Registration conditions.**

1462 A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, dealing in,
1463 or processing any industrial hemp in the Commonwealth.

1464 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1465 1. Maintain records that reflect compliance with this chapter and with all other state or federal laws
1466 regulating the growing, dealing in, or processing of industrial hemp;

1467 2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

1468 3. Allow his production field, dealership, or process site to be inspected by and at the discretion of the
1469 Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the
1470 locality in which the production field or dealership or process site exists;

1471 4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's
1472 industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established
1473 pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

1474 5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner
1475 approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in,
1476 or the processor processes that has been tested and, following any re-sampling and retesting as authorized
1477 pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is
1478 greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

1479 C. *A processor that processes a hemp product intended for smoking or a hemp product that is an industrial
1480 hemp extract intended for human consumption shall make available the results of the testing conducted in
1481 accordance with § 3.2-4122 to each retail establishment that offers for sale the processor's hemp products.*

1482 **§ 3.2-4117.1. Hemp testing laboratory license.**

1483 A. *The Commissioner shall establish a licensure program to allow a laboratory to test industrial hemp or
1484 hemp products in the Commonwealth.*

1485 B. *Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall apply to
1486 the Commissioner for a license on a form provided by the Commissioner. At a minimum, the application shall
1487 include:*

1488 1. *The name and address of the laboratory.*

1489 2. *The address of each location at which the laboratory intends to test industrial hemp or hemp products.*

1490 3. *The name of the person who will oversee and be responsible for the testing and documentation that such
1491 person has earned from an institution of higher education accredited by a national or regional certifying*

1492 authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-
 1493 degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of
 1494 four years of post-degree laboratory experience.

1495 4. A signed statement that the applicant has no direct or indirect financial interest in a grower, processor,
 1496 or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of
 1497 industrial hemp or a hemp product. Additionally, no person with a direct or indirect financial interest in the
 1498 laboratory shall have a direct or indirect financial interest in a grower, processor, or dealer or in any other
 1499 entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp
 1500 product.

1501 5. Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the
 1502 International Organization for Standardization by a third-party accrediting body.

1503 6. Any other information required by the Commissioner.

1504 7. The payment of a nonrefundable application fee.

1505 C. Each license issued pursuant to this section shall be valid for a period of one year from the date of
 1506 issuance and may be renewed in successive years. Each annual renewal shall require the payment of a license
 1507 renewal fee.

1508 D. Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be required
 1509 to apply to the Commissioner for a license to test industrial hemp or hemp products in the Commonwealth.

1510 **§ 3.2-4117.2. Hemp testing laboratory license.**

1511 A. A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing any
 1512 industrial hemp or hemp product in the Commonwealth. However, a marijuana testing facility, as defined in §
 1513 4.1-600, shall not be required to obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing
 1514 industrial hemp or hemp products in the Commonwealth.

1515 B. A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:

1516 1. Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
 1517 Standardization by a third-party accrediting body.

1518 2. Employ a person who will oversee and be responsible for testing hemp products and who has earned
 1519 from an institution of higher education accredited by a national or regional certifying authority at least (i) a
 1520 master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory
 1521 experience of (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-
 1522 degree laboratory experience.

1523 3. Allow the Commissioner or his designee to inspect each location at which the laboratory tests hemp
 1524 products.

1525 C. If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection C of §
 1526 3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 indicate that the tested hemp product exceeds
 1527 the maximum level of allowable contamination for any contaminant for which testing is required, a hemp testing
 1528 laboratory shall, within 30 days of completing the test, notify the Commissioner of the test results.

1529 D. For each day any violation of this section occurs, the Commissioner may assess a penalty not to exceed
 1530 (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or subsequent violation.
 1531 All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.

1532 **§ 3.2-4122. Hemp products.**

1533 A. Any hemp product intended for smoking that is distributed, offered for sale, or sold in the Commonwealth
 1534 shall be:

1535 1. Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.

1536 2. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

1537 3. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

1538 B. Any hemp product that is intended for smoking or that is or includes an industrial hemp extract intended
 1539 for human consumption that is distributed, offered for sale, or sold in the Commonwealth shall be:

1540 1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

1541 2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

1542 C. A processor shall destroy the batch of hemp product intended for smoking or consumption whose testing
 1543 sample exceeds the maximum level of allowable contamination for each contaminant established in regulations
 1544 adopted pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product into
 1545 compliance with such regulation.

1546 D. For any violation of subsection A or B by a processor or by a retail establishment, the Commissioner
 1547 may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500
 1548 for a third or subsequent violation. For any violation of subsection C by a processor, the Commissioner may
 1549 assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200 for a second violation, and (c) \$500 for a
 1550 third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be
 1551 deposited in the state treasury.

1552 E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking or consumption
 1553 that is produced prior to the initial effective date of the regulations adopted pursuant to subsection C or D of §
 1554 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a
 1555 hemp product intended for smoking or consumption pursuant to this subsection shall provide to the
 1556 Commissioner, upon request, documentation of the date on which the product was processed.

1557 Article 6.

1558 Edible Marijuana Products.

1559 **§ 3.2-5145.6. Definitions.**

1560 As used in this article, unless the context requires a different meaning:

1561 "Edible marijuana product" means the same as that term is defined in § 4.1-600.

1562 "Food" means any article that is intended for human consumption and introduction into commerce, whether
 1563 the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof.
 1564 "Food" does not mean drug as defined in § 54.1-3401.

1565 **§ 3.2-5145.7. Edible marijuana products; approved food; adulterated food.**

1566 A. An edible marijuana product is a food and is subject to the requirements of this chapter and regulations
 1567 adopted pursuant to this chapter.

1568 B. An edible marijuana product that does not comply with the provisions of § 4.1-1403 or health and safety
 1569 regulations adopted pursuant thereto shall be deemed to be adulterated.

1570 **§ 3.2-5145.8. Manufacturer of edible marijuana products.**

1571 A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:

- 1572 1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and
- 1573 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible marijuana
 1574 products in the location in which such manufacturing occurs.

1575 **§ 3.2-5145.9. Regulations.**

1576 A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

1577 B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000
 1578 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any
 1579 regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall
 1580 publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the
 1581 Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the
 1582 proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number
 1583 of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60
 1584 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative
 1585 review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process
 1586 for regulations adopted pursuant to this section. The Board shall consider and keep on file all public comments
 1587 received for any regulation adopted pursuant to this section.

1588 TITLE 4.1.

1589 ALCOHOLIC BEVERAGE AND CANNABIS CONTROL ACT.

1590 SUBTITLE I.

1591 ALCOHOLIC BEVERAGE CONTROL ACT.

1592 § 4.1-100. (Effective until July 1, 2021) Definitions.

1593 As used in this ~~title~~ *subtitle* unless the context requires a different meaning:

1594 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented
1595 liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but
1596 shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by
1597 the government of the United States.

1598 "*Alcoholic Beverage Control Act*" means *Subtitle I (§ 4.1-100 et seq.)*.

1599 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages
1600 with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

1601 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
1602 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and
1603 every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable
1604 of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall
1605 be considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
1606 according to the order in which they are set forth in this definition; except that beer may be manufactured to
1607 include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49
1608 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other
1609 nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent
1610 by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as
1611 no more than one and one-half percent of the volume of the finished product consists of alcohol derived from
1612 added flavors and other nonbeverage ingredients containing alcohol.

1613 "Art instruction studio" means any commercial establishment that provides to its customers all required
1614 supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional
1615 session.

1616 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works
1617 of art are sold or displayed.

1618 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ *subtitle*.

1619 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1620 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii)
1621 offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at
1622 least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is
1623 provided. For purposes of the licensing requirements of this ~~title~~ *subtitle*, "bed and breakfast establishment"
1624 includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other
1625 than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight
1626 lodging is provided.

1627 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley,
1628 malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of
1629 alcohol by volume.

1630 "Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only,
1631 custom made apparel and that offers a membership program to customers. Such establishment shall be a
1632 permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and
1633 delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of
1634 alcoholic beverages.

1635 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1636 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

1637 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for
1638 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C.
1639 § 59ii.

1640 "Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of
1641 an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not

1642 for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so
1643 operated. A corporation or association shall not lose its status as a club because of the conduct of charitable
1644 gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which
1645 nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or
1646 consumed in the room where such charitable gaming is being conducted while such gaming is being conducted
1647 and that no alcoholic beverages are made available upon the premises to any person who is neither a member
1648 nor a bona fide guest of a member.

1649 Any such corporation or association which has been declared exempt from federal and state income taxes
1650 as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation
1651 or association.

1652 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10
1653 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and
1654 a combination of dining, entertainment, office, residential, or hotel establishments located in a physically
1655 integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association
1656 that is responsible for the management, maintenance, and operation of the common areas thereof.

1657 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic
1658 beverages.

1659 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes,
1660 fruits, and other agricultural products from a person holding a farm winery license and crushes, processes,
1661 ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery
1662 licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract winemaking facility for a farm
1663 winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits,
1664 or other agricultural products used in the production of the wine. The contract winemaking facility shall have
1665 no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with
1666 the contract. The contract winemaking facility may charge the farm winery for its services.

1667 "Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent
1668 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended
1669 for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

1670 "Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years
1671 of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms,
1672 Internet access, printers, copiers, telephones, and fax machines.

1673 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building
1674 that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at
1675 least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the
1676 public, for compensation, at least one meal per day, lodging, and recreational and educational activities related
1677 to farming, livestock, and other rural activities.

1678 "Day spa" means any commercial establishment that offers to the public both massage therapy, performed
1679 by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by
1680 persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

1681 "Designated area" means a room or area approved by the Board for on-premises licensees.

1682 "Dining area" means a public room or area in which meals are regularly served.

1683 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
1684 manufactured, sold, or used.

1685 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
1686 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and
1687 bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21
1688 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing
1689 vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural
1690 growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where
1691 the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an

1692 accredited public or private institution of higher education, provided that (a) no wine manufactured by the
1693 institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and
1694 educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm
1695 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is
1696 operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
1697 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals
1698 for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
1699 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1700 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned
1701 agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by
1702 a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land
1703 zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in
1704 the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

1705 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items
1706 relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which
1707 is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and
1708 offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located
1709 (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii)
1710 within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation
1711 of the shop in determining whether it shall be considered a gift shop.

1712 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully
1713 be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities
1714 for manufacturing, fermenting and bottling such wine or beer.

1715 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities,
1716 where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various
1717 types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

1718 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1719 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the
1720 Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion
1721 pictures to the public.

1722 "Hotel" means any duly licensed establishment, provided with special space and accommodation, where,
1723 in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more
1724 bedrooms. It shall also mean the person who operates such hotel.

1725 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant
1726 to this ~~title~~ subtitle.

1727 "Internet beer retailer" means a person who owns or operates an establishment with adequate inventory,
1728 shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and
1729 shipped directly to consumers and which establishment is not a retail store open to the public.

1730 "Internet wine retailer" means a person who owns or operates an establishment with adequate inventory,
1731 shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and
1732 shipped directly to consumers and which establishment is not a retail store open to the public.

1733 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably
1734 affect his manner, disposition, speech, muscular movement, general appearance or behavior.

1735 "Licensed" means the holding of a valid license granted by the Authority.

1736 "Licensee" means any person to whom a license has been granted by the Authority.

1737 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content
1738 of 25 percent by volume.

1739 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by
1740 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with
1741 nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts,

1742 sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices.
1743 Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low
1744 alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the
1745 Commonwealth.

1746 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises
1747 consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at
1748 the establishment.

1749 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-
1750 service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in
1751 full course meals with a single substantial entree.

1752 "Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke
1753 clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual
1754 dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership
1755 fee shall be not less than \$25 for any term of membership.

1756 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
1757 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person
1758 who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of
1759 a bona fide member, whether alive or deceased, of a national or international organization to which an individual
1760 lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member
1761 whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full
1762 amount of such contribution being paid in advance in a lump sum.

1763 "Member of a coworking establishment" means a person who maintains a membership in the coworking
1764 establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in
1765 the manner established by the rules of the coworking establishment. "Member of a coworking establishment"
1766 does not include an employee or any person with an ownership interest in the coworking establishment.

1767 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

1768 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and
1769 which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not
1770 commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain
1771 alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

1772 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which
1773 is the county seat of Smyth County.

1774 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
1775 designated in the application for a license as the place at which the manufacture, bottling, distribution, use or
1776 sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement
1777 actually and exclusively used as a private residence.

1778 "Principal stockholder" means any person who individually or in concert with his spouse and immediate
1779 family members beneficially owns or controls, directly or indirectly, five percent or more of the equity
1780 ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate
1781 family members has the power to vote or cause the vote of five percent or more of any such equity ownership.

1782 "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934,
1783 as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation
1784 holding, directly or indirectly, a license from the Authority.

1785 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,
1786 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,
1787 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

1788 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private
1789 meetings or private parties limited in attendance to members and guests of a particular group, association or
1790 organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while
1791 such restaurant is closed to the public and in use for private meetings or parties limited in attendance to

1792 employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices,
1793 office buildings or industrial facilities while closed to the public and in use for private meetings or parties
1794 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building
1795 or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which
1796 alcoholic beverages are not sold.

1797 "Residence" means any building or part of a building or structure where a person resides, but does not
1798 include any part of a building which is not actually and exclusively used as a private residence, nor any part of
1799 a hotel or club other than a private guest room thereof.

1800 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
1801 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
1802 voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities
1803 both to its members and the general public; or (iii) operated by a corporation that operates as a management
1804 company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or
1805 dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the
1806 general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling
1807 units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms
1808 or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and
1809 dwelling units shall be located within the same locality. The Authority may consider the purpose,
1810 characteristics, and operation of the applicant establishment in determining whether it shall be considered as a
1811 resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be
1812 observed by such licensee.

1813 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any
1814 establishment provided with special space and accommodation, where, in consideration of payment, meals or
1815 other foods prepared on the premises are regularly sold.

1816 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,
1817 an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has
1818 adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at
1819 tables in dining areas on the premises, and includes establishments specializing in full course meals with a
1820 single substantial entree.

1821 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
1822 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
1823 beverages.

1824 "Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit,
1825 fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

1826 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board
1827 has designated as a law-enforcement officer pursuant to § 4.1-105.

1828 "Special event" means an event sponsored by a duly organized nonprofit corporation or association and
1829 conducted for an athletic, charitable, civic, educational, political, or religious purpose.

1830 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and
1831 other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or
1832 more of the last four named ingredients, but shall not include any such liquors completely denatured in
1833 accordance with formulas approved by the United States government.

1834 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar
1835 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
1836 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of
1837 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal
1838 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content
1839 of 21 percent by volume.

1840 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not
1841 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine

1842 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit
1843 juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products
1844 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall
1845 be treated as wine for all purposes except for taxation under § 4.1-236.

1846 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-
1847 premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by
1848 § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

1849 **§ 4.1-100. (Effective July 1, 2021) Definitions.**

1850 As used in this ~~title~~ *subtitle* unless the context requires a different meaning:

1851 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented
1852 liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but
1853 shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by
1854 the government of the United States.

1855 "*Alcoholic Beverage Control Act*" means *Subtitle I (§ 4.1-100 et seq.)*.

1856 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages
1857 with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

1858 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
1859 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and
1860 every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable
1861 of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall
1862 be considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
1863 according to the order in which they are set forth in this definition; except that beer may be manufactured to
1864 include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49
1865 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other
1866 nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent
1867 by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as
1868 no more than one and one-half percent of the volume of the finished product consists of alcohol derived from
1869 added flavors and other nonbeverage ingredients containing alcohol.

1870 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works
1871 of art are sold or displayed.

1872 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ *subtitle*.

1873 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1874 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii)
1875 offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at
1876 least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is
1877 provided. For purposes of the licensing requirements of this ~~title~~ *subtitle*, "bed and breakfast establishment"
1878 includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other
1879 than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight
1880 lodging is provided.

1881 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley,
1882 malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of
1883 alcohol by volume.

1884 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1885 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

1886 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-
1887 2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth
1888 on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in
1889 length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for
1890 cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an
1891 attendant who has satisfied all training requirements set forth in this ~~title~~ *subtitle* or Board regulation.

1892 "Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of
1893 an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not
1894 for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so
1895 operated. A corporation or association shall not lose its status as a club because of the conduct of charitable
1896 gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which
1897 nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or
1898 consumed in the room where such charitable gaming is being conducted while such gaming is being conducted
1899 and that no alcoholic beverages are made available upon the premises to any person who is neither a member
1900 nor a bona fide guest of a member.

1901 Any such corporation or association which has been declared exempt from federal and state income taxes
1902 as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation
1903 or association.

1904 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10
1905 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and
1906 a combination of dining, entertainment, office, residential, or hotel establishments located in a physically
1907 integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association
1908 that is responsible for the management, maintenance, and operation of the common areas thereof.

1909 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic
1910 beverages.

1911 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes,
1912 fruits, and other agricultural products from a person holding a farm winery license and crushes, processes,
1913 ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery
1914 licensee. For all purposes of this ~~title~~ *subtitle*, wine produced by a contract winemaking facility for a farm
1915 winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits,
1916 or other agricultural products used in the production of the wine. The contract winemaking facility shall have
1917 no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with
1918 the contract. The contract winemaking facility may charge the farm winery for its services.

1919 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure
1920 where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human
1921 consumption consisting of a variety of such items of the types normally sold in grocery stores.

1922 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building
1923 that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at
1924 least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the
1925 public, for compensation, at least one meal per day, lodging, and recreational and educational activities related
1926 to farming, livestock, and other rural activities.

1927 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little
1928 preparation, such as cheeses, salads, cooked meats, and related condiments.

1929 "Designated area" means a room or area approved by the Board for on-premises licensees.

1930 "Dining area" means a public room or area in which meals are regularly served.

1931 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a
1932 prescription and other medicines and items for home and general use.

1933 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
1934 manufactured, sold, or used.

1935 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
1936 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and
1937 bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21
1938 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing
1939 vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural
1940 growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where
1941 the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an

1942 accredited public or private institution of higher education, provided that (a) no wine manufactured by the
1943 institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and
1944 educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm
1945 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is
1946 operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
1947 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals
1948 for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
1949 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1950 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned
1951 agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by
1952 a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land
1953 zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in
1954 the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

1955 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items
1956 relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which
1957 is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and
1958 offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located
1959 (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii)
1960 within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation
1961 of the shop in determining whether it shall be considered a gift shop.

1962 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully
1963 be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities
1964 for manufacturing, fermenting and bottling such wine or beer.

1965 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina,
1966 (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the
1967 premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public
1968 about local oysters and other seafood products.

1969 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities,
1970 where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various
1971 types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

1972 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1973 "Grocery store" means an establishment that sells food and other items intended for human consumption,
1974 including a variety of ingredients commonly used in the preparation of meals.

1975 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the
1976 Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion
1977 pictures to the public.

1978 "Hotel" means any duly licensed establishment, provided with special space and accommodation, where,
1979 in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more
1980 bedrooms. It shall also mean the person who operates such hotel.

1981 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant
1982 to this ~~title~~ subtitle.

1983 "Internet wine and beer retailer" means a person who owns or operates an establishment with adequate
1984 inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are
1985 taken and shipped directly to consumers and which establishment is not a retail store open to the public.

1986 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably
1987 affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

1988 "Licensed" means the holding of a valid license granted by the Authority.

1989 "Licensee" means any person to whom a license has been granted by the Authority.

1990 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content
1991 of 25 percent by volume.

1992 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by
1993 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with
1994 nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts,
1995 sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices.
1996 Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ *subtitle*, except that low
1997 alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the
1998 Commonwealth.

1999 "Marina store" means an establishment that is located on the same premises as a marina, is operated by the
2000 owner of such marina, and sells food and nautical and fishing supplies.

2001 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-
2002 service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in
2003 full course meals with a single substantial entree.

2004 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
2005 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person
2006 who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of
2007 a bona fide member, whether alive or deceased, of a national or international organization to which an individual
2008 lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member
2009 whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full
2010 amount of such contribution being paid in advance in a lump sum.

2011 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

2012 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and
2013 which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not
2014 commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain
2015 alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

2016 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which
2017 is the county seat of Smyth County.

2018 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
2019 designated in the application for a license as the place at which the manufacture, bottling, distribution, use or
2020 sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement
2021 actually and exclusively used as a private residence.

2022 "Principal stockholder" means any person who individually or in concert with his spouse and immediate
2023 family members beneficially owns or controls, directly or indirectly, five percent or more of the equity
2024 ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate
2025 family members has the power to vote or cause the vote of five percent or more of any such equity ownership.

2026 "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934,
2027 as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation
2028 holding, directly or indirectly, a license from the Authority.

2029 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,
2030 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,
2031 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

2032 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private
2033 meetings or private parties limited in attendance to members and guests of a particular group, association or
2034 organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while
2035 such restaurant is closed to the public and in use for private meetings or parties limited in attendance to
2036 employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices,
2037 office buildings or industrial facilities while closed to the public and in use for private meetings or parties
2038 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building
2039 or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which
2040 alcoholic beverages are not sold.

2041 "Residence" means any building or part of a building or structure where a person resides, but does not
2042 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a
2043 hotel or club other than a private guest room thereof.

2044 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
2045 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
2046 voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities
2047 both to its members and to the general public; or (iii) operated by a corporation that operates as a management
2048 company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or
2049 dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the
2050 general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling
2051 units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms
2052 or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and
2053 dwelling units shall be located within the same locality. The Authority may consider the purpose,
2054 characteristics, and operation of the applicant establishment in determining whether it shall be considered as a
2055 resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be
2056 observed by such licensee.

2057 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any
2058 establishment provided with special space and accommodation, where, in consideration of payment, meals or
2059 other foods prepared on the premises are regularly sold.

2060 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,
2061 an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has
2062 adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at
2063 tables in dining areas on the premises, and includes establishments specializing in full course meals with a
2064 single substantial entree.

2065 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
2066 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
2067 beverages.

2068 "Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit,
2069 fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

2070 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board
2071 has designated as a law-enforcement officer pursuant to § 4.1-105.

2072 "Special event" means an event sponsored by a duly organized nonprofit corporation or association and
2073 conducted for an athletic, charitable, civic, educational, political, or religious purpose.

2074 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and
2075 other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or
2076 more of the last four named ingredients, but shall not include any such liquors completely denatured in
2077 accordance with formulas approved by the United States government.

2078 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar
2079 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
2080 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of
2081 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal
2082 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content
2083 of 21 percent by volume.

2084 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not
2085 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine
2086 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit
2087 juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products
2088 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall
2089 be treated as wine for all purposes except for taxation under § 4.1-236.

2090 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-
2091 premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by
2092 § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

2093 **§ 4.1-101.01. Board of Directors; membership; terms; compensation.**

2094 A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large
2095 appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house
2096 of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at
2097 least three years next preceding his appointment, and his continued residency shall be a condition of his tenure
2098 in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess
2099 a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or
2100 control of a business or legal affairs. Appointees shall be subject to a background check in accordance with §
2101 4.1-101.03.

2102 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members
2103 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired
2104 term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms;
2105 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the
2106 Board may be removed from office by the Governor for cause, including the improper use of its police powers,
2107 malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure
2108 to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly,
2109 or refusal to carry out a lawful directive of the Governor.

2110 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership
2111 of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The
2112 Board may also form committees and advisory councils, which may include representatives who are not
2113 members of the Board, to undertake more extensive study and discussion of the issues before the Board. A
2114 majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy
2115 in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the
2116 Authority.

2117 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be
2118 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written
2119 request of a majority of the Board members.

2120 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses
2121 for the performance of their official duties as set forth in the general appropriation act for members of the House
2122 of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive
2123 annually such salary, compensation, and reimbursement of expenses for the performance of his official duties
2124 as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly
2125 is not in session.

2126 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall
2127 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the
2128 Authority.

2129 **§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of**
2130 **confidential assistant to the Chief Executive Officer.**

2131 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the
2132 affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive
2133 Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a
2134 related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in
2135 the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall
2136 receive such compensation as determined by the Board and approved by the Governor, including any
2137 performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject
2138 to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the
2139 powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance

2140 measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be
2141 removed from office by the Governor for cause, including the improper use of the Authority's police powers,
2142 malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure
2143 to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out
2144 the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to
2145 carry out a lawful directive of the Governor.

2146 B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall
2147 not be engaged in any other profession or occupation.

2148 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance
2149 with this ~~title~~ subtitle.

2150 D. The Chief Executive Officer shall:

2151 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority
2152 and preserve at the Authority's general office all books, documents, and papers of the Authority;

2153 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be
2154 conferred or imposed upon him by law;

2155 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be
2156 necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's
2157 approval; and

2158 4. Make recommendations to the Board for legislative and regulatory changes.

2159 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief
2160 Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level
2161 or cause such a contribution to be made on his behalf.

2162 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint
2163 one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

2164 **§ 4.1-101.07. Forms of accounts and records; audit; annual report.**

2165 A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever
2166 source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts
2167 or his legally authorized representatives shall annually examine the accounts and books of the Authority. The
2168 Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of
2169 each year. Such report shall contain the audited annual financial statements of the Authority for the year ending
2170 the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast,
2171 assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions
2172 of services and tangible or intangible property, any material changes to the policies and procedures issued by
2173 the Authority related to procurement or personnel, and any proposed marketing activities.

2174 B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~ subtitle,
2175 the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These
2176 systems and related procedures shall be subject to review and approval by the State Comptroller. Upon
2177 agreement with the State Comptroller, the Authority may report summary level detail on both payroll and
2178 nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management
2179 system or its successor system. Such reports shall be made in accordance with policies, procedures, and
2180 directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all
2181 disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel
2182 reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

2183 **§ 4.1-101.09. Exemptions from taxes or assessments.**

2184 The exercise of the powers granted by this ~~title~~ subtitle shall be in all respects for the benefit of the people
2185 of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their
2186 living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority
2187 constitutes the performance of essential governmental functions, the Authority shall not be required to pay any
2188 taxes or assessments upon any property acquired or used by the Authority under the provisions of this ~~title~~
2189 subtitle or upon the income therefrom, including sales and use taxes on the tangible personal property used in

2190 the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons
 2191 conducting on the premises of any property of the Authority businesses for which local or state taxes would
 2192 otherwise be required.

2193 **§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures; information**
 2194 **systems; etc.**

2195 A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement
 2196 Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this ~~title~~
 2197 *subtitle*. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et
 2198 seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this ~~title~~
 2199 *subtitle*.

2200 B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction
 2201 and the disposition of surplus materials shall be exempt from:

2202 1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from
 2203 the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2204 2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117;
 2205 and

2206 3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services,
 2207 insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the
 2208 duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of
 2209 General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the
 2210 oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for
 2211 the construction of the Authority's capital projects and construction-related professional services under § 2.2-
 2212 1132.

2213 C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services,
 2214 including information technology goods and services; (ii) shall use directly or by integration or interface the
 2215 Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the
 2216 Authority and the Department of General Services; and (iii) shall post on the Department of General Services'
 2217 central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices,
 2218 and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on
 2219 one website.

2220 **§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
 2221 **communications as alternative to regular mail; limitation.**

2222 A. Whenever in this ~~title~~ *subtitle* the Board is required to send any mail or notice by certified mail and such
 2223 mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that
 2224 is sent by the Board may be sent by regular mail.

2225 B. Except as provided in subsection C, whenever in this ~~title~~ *subtitle* the Board is required or permitted to
 2226 send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§
 2227 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official
 2228 communication by email, text message, or other electronic means to the email address, telephone number, or
 2229 other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof
 2230 of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by
 2231 the Board confirming the electronic delivery.

2232 C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or
 2233 revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by
 2234 the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or
 2235 revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other
 2236 electronic means.

2237 **§ 4.1-103. (Effective until July 1, 2021) General powers of Board.**

2238 The Board shall have the power to:

2239 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

- 2240 2. Adopt, use, and alter at will a common seal;
- 2241 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of
2242 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of
2243 providing for the payment of the expenses of the Authority;
- 2244 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties,
2245 the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements
2246 with any person or federal agency;
- 2247 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
2248 investment bankers, superintendents, managers, and such other employees and special agents as may be
2249 necessary and fix their compensation to be payable from funds made available to the Authority. Legal services
2250 for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of
2251 Title 2.2;
- 2252 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person
2253 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
2254 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
2255 from any other source aid or contributions of either money, property, or other things of value, to be held, used,
2256 and applied only for the purposes for which such grants and contributions may be made. All federal moneys
2257 accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as
2258 are prescribed by the United States and as are consistent with state law, and all state moneys accepted under
2259 this section shall be expended by the Authority upon such terms and conditions as are prescribed by the
2260 Commonwealth;
- 2261 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall
2262 be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.
2263 The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee
2264 of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any
2265 delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the
2266 exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive
2267 summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to
2268 ensure faithful performance of the duties and tasks;
- 2269 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
2270 purposes or necessary or convenient to exercise its powers;
- 2271 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
2272 construction, based upon competitive principles;
- 2273 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
2274 2.2;
- 2275 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and
2276 to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
- 2277 12. Buy and sell any mixers;
- 2278 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
2279 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
2280 (clothing);
- 2281 14. Control the possession, sale, transportation and delivery of alcoholic beverages;
- 2282 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
2283 operated and the location of such stores;
- 2284 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
2285 beverages to and from such warehouses;
- 2286 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
2287 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
2288 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
2289 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to

2290 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
2291 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and
2292 conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed,
2293 tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and
2294 conditions as may be determined by the Board; and occupy and improve any land or building required for the
2295 purposes of this ~~title~~ subtitle;

2296 18. Purchase or otherwise acquire title to any land or building required for the purposes of this ~~title~~ subtitle
2297 and sell and convey the same by proper deed, with the consent of the Governor;

2298 19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered
2299 necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending and
2300 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
2301 beverages;

2302 20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
2303 kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed
2304 thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
2305 alcohol;

2306 21. Appoint every agent and employee required for its operations; require any or all of them to give bonds
2307 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts
2308 and professionals;

2309 22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
2310 of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer
2311 oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold
2312 and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases,
2313 subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent
2314 agreements and may request and accept from any applicant or licensee a consent agreement in lieu of
2315 proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement
2316 shall include findings of fact and may include an admission or a finding of a violation. A consent agreement
2317 shall not be considered a case decision of the Board and shall not be subject to judicial review under the
2318 provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future
2319 disciplinary proceedings;

2320 23. Make a reasonable charge for preparing and furnishing statistical information and compilations to
2321 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2322 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest
2323 in obtaining the information requested if such information is not to be used for commercial or trade purposes;

2324 24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §
2325 4.1-111;

2326 25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of
2327 alcoholic beverages;

2328 26. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board
2329 regulations;

2330 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

2331 28. Establish minimum food sale requirements for all retail licensees;

2332 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive
2333 Officer as the Board deems appropriate;

2334 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
2335 activities undertaken to enforce the provisions of this ~~title~~ subtitle; and

2336 31. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

2337 **§ 4.1-103. (Effective July 1, 2021) General powers of Board.**

2338 The Board shall have the power to:

2339 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

- 2340 2. Adopt, use, and alter at will a common seal;
- 2341 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of
2342 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of
2343 providing for the payment of the expenses of the Authority;
- 2344 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties,
2345 the furtherance of its purposes, and the execution of its powers under this ~~title~~ subtitle, including agreements
2346 with any person or federal agency;
- 2347 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
2348 investment bankers, superintendents, managers, and such other employees and special agents as may be
2349 necessary and fix their compensation to be payable from funds made available to the Authority. Legal services
2350 for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of
2351 Title 2.2;
- 2352 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person
2353 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
2354 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
2355 from any other source aid or contributions of either money, property, or other things of value, to be held, used,
2356 and applied only for the purposes for which such grants and contributions may be made. All federal moneys
2357 accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as
2358 are prescribed by the United States and as are consistent with state law, and all state moneys accepted under
2359 this section shall be expended by the Authority upon such terms and conditions as are prescribed by the
2360 Commonwealth;
- 2361 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall
2362 be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.
2363 The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee
2364 of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any
2365 delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the
2366 exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive
2367 summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to
2368 ensure faithful performance of the duties and tasks;
- 2369 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
2370 purposes or necessary or convenient to exercise its powers;
- 2371 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
2372 construction, based upon competitive principles;
- 2373 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
2374 2.2;
- 2375 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and
2376 to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
- 2377 12. Buy and sell any mixers;
- 2378 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
2379 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
2380 (clothing);
- 2381 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
- 2382 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
2383 operated and the location of such stores;
- 2384 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
2385 beverages to and from such warehouses;
- 2386 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
2387 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
2388 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
2389 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to

2390 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
2391 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and
2392 conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed,
2393 tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and
2394 conditions as may be determined by the Board; and occupy and improve any land or building required for the
2395 purposes of this ~~title~~ subtitle;

2396 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
2397 necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending, and
2398 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
2399 beverages;

2400 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
2401 kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed
2402 thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
2403 alcohol;

2404 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds
2405 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts
2406 and professionals;

2407 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
2408 of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer
2409 oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold
2410 and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases,
2411 subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent
2412 agreements and may request and accept from any applicant or licensee a consent agreement in lieu of
2413 proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement
2414 shall include findings of fact and may include an admission or a finding of a violation. A consent agreement
2415 shall not be considered a case decision of the Board and shall not be subject to judicial review under the
2416 provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future
2417 disciplinary proceedings;

2418 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to
2419 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2420 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest
2421 in obtaining the information requested if such information is not to be used for commercial or trade purposes;

2422 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §
2423 4.1-111;

2424 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of
2425 alcoholic beverages;

2426 25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board
2427 regulations;

2428 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

2429 27. Establish minimum food sale requirements for all retail licensees;

2430 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive
2431 Officer as the Board deems appropriate;

2432 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
2433 activities undertaken to enforce the provisions of this ~~title~~ subtitle;

2434 30. Establish and collect fees for all permits set forth in this ~~title~~ subtitle, including fees associated with
2435 applications for such permits;

2436 31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated
2437 by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of
2438 the applicable state license fee; and

2439 32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

2440 **§ 4.1-104. Purchases by the Board.**

2441 The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits
2442 intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended
2443 for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this ~~title~~
2444 *subtitle* are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2445 **§ 4.1-105. Police power of members, agents and employees of Board.**

2446 Members of the Board are vested, and such agents and employees of the Board designated by it shall be
2447 vested, with like power to enforce the provisions of (i) this ~~title subtitle~~ and the criminal laws of the
2448 Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii)
2449 § 18.2-371.2; and (iv) § 58.1-1037.

2450 **§ 4.1-106. Liability of Board members; suits by and against Board.**

2451 A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his
2452 duties as prescribed by this ~~title subtitle~~, except by the Commonwealth, and then only in the Circuit Court of
2453 the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the
2454 Attorney General.

2455 B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond
2456 to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the
2457 proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the
2458 names of, the members of the Board.

2459 **§ 4.1-107. Counsel for members, agents and employees of Board.**

2460 If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any
2461 charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ
2462 special counsel approved by the Attorney General to defend such member, agent, or employee. The
2463 compensation for special counsel employed pursuant to this section, shall, subject to the approval of the
2464 Attorney General, be paid in the same manner as other expenses incident to the administration of this ~~title~~
2465 *subtitle* are paid.

2466 **§ 4.1-111. (Effective until July 1, 2021) Regulations of Board.**

2467 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title subtitle~~ or the general
2468 laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title subtitle~~ and to
2469 prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board
2470 may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in
2471 accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

2472 B. The Board shall promulgate regulations that:

2473 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed
2474 on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine
2475 and beer may be sold.

2476 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by
2477 such licensee.

2478 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers,
2479 importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs,
2480 quantity and value of the articles or services involved; prevent undue competitive domination of any person by
2481 any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages
2482 in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

2483 4. Establish requirements for the form, content, and retention of all records and accounts, including the (i)
2484 reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all
2485 licensees.

2486 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
2487 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
2488 record with the Board by certified mail, return receipt requested, and by regular mail.

2489 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit
2490 bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the
2491 provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers'
2492 seals, marks, or stamps affixed to the bottles are intact.

2493 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for
2494 purchases at government stores, including provision for the collection, where appropriate, of related fees,
2495 penalties, and service charges.

2496 8. Require that banquet licensees in charge of public events as defined by Board regulations report to the
2497 Board the income and expenses associated with the public event on a form prescribed by the Board when the
2498 banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet
2499 licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

2500 9. Provide alternative methods for licensees to maintain and store business records that are subject to Board
2501 inspection, including methods for Board-approved electronic and off-site storage.

2502 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half
2503 of one percent or more of alcohol by volume in the same location where wine and beer are available for sale
2504 within the licensed premises.

2505 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell
2506 flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

2507 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
2508 subsection C of § 4.1-232.

2509 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages,
2510 not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise
2511 promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully
2512 sold. Such regulations shall:

2513 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the
2514 general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as
2515 provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as
2516 set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against
2517 cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in
2518 Board regulation; and

2519 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the
2520 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter
2521 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in §
2522 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

2523 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to
2524 an agreement with a brand owner not under common control with the manufacturing brewery and sell and
2525 deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be
2526 an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the
2527 parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

2528 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall
2529 permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and
2530 any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using
2531 creative marketing techniques in such advertisements, provided that such techniques do not tend to induce
2532 overconsumption or consumption by minors.

2533 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of
2534 wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such
2535 products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any
2536 Board limitations on the frequency of such gifts.

2537 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass,
2538 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board,
2539 with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2540 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic,
2541 metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a
2542 maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used
2543 only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop
2544 licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade
2545 name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the
2546 retailer.

2547 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises
2548 and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers
2549 made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for
2550 metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an
2551 order from the consumer.

2552 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages
2553 and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the
2554 Board.

2555 21. Establish and make available to all licensees and permittees for which on-premises consumption of
2556 alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or
2557 otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training
2558 module, which shall include (i) information that enables licensees, permittees, and their employees to recognize
2559 situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from
2560 culminating in sexual assault.

2561 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available
2562 for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be
2563 available in all areas of the licensed premises in which spirits are sold or served.

2564 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2565 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other
2566 documents necessary to verify the licensee's compliance with applicable minimum food sale requirements
2567 within 30 days of the date such records or documents are due.

2568 C. The Board may promulgate regulations that:

2569 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based
2570 on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the
2571 applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause
2572 (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting
2573 of such waiver shall be limited to two events per year for each applicant.

2574 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of
2575 any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

2576 3. Provide incentives to licensees with a proven history of compliance with state and federal laws and
2577 regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial
2578 to the Commonwealth.

2579 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
2580 licensees.

2581 E. Courts shall take judicial notice of Board regulations.

2582 F. The Board's power to regulate shall be broadly construed.

2583 **§ 4.1-111. (Effective July 1, 2021) Regulations of Board.**

2584 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or the general
2585 laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ subtitle and to
2586 prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board

2587 may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in
2588 accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

2589 B. The Board shall promulgate regulations that:

2590 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed
2591 on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine
2592 and beer may be sold.

2593 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by
2594 such licensee.

2595 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers,
2596 importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs,
2597 quantity and value of the articles or services involved; prevent undue competitive domination of any person by
2598 any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages
2599 in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

2600 4. Establish requirements for the form, content, and retention of all records and accounts, including the (i)
2601 reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all
2602 licensees.

2603 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
2604 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
2605 record with the Board by certified mail, return receipt requested, and by regular mail.

2606 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit
2607 bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the
2608 provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers'
2609 seals, marks, or stamps affixed to the bottles are intact.

2610 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for
2611 purchases at government stores, including provision for the collection, where appropriate, of related fees,
2612 penalties, and service charges.

2613 8. Require that banquet licensees in charge of public events as defined by Board regulations report to the
2614 Board the income and expenses associated with the public event on a form prescribed by the Board when the
2615 banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet
2616 licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

2617 9. Provide alternative methods for licensees to maintain and store business records that are subject to Board
2618 inspection, including methods for Board-approved electronic and off-site storage.

2619 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half
2620 of one percent or more of alcohol by volume in the same location where wine and beer are available for sale
2621 within the licensed premises.

2622 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell
2623 flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

2624 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
2625 subsection C of § 4.1-232.

2626 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages,
2627 not inconsistent with the provisions of this ~~title~~ subtitle, so that such advertising does not encourage or otherwise
2628 promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully
2629 sold. Such regulations shall:

2630 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the
2631 general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as
2632 provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as
2633 set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against
2634 cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in
2635 Board regulation; and

2636 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the
2637 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter
2638 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in §
2639 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

2640 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to
2641 an agreement with a brand owner not under common control with the manufacturing brewery and sell and
2642 deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be
2643 an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the
2644 parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

2645 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall
2646 permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and
2647 any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using
2648 creative marketing techniques in such advertisements, provided that such techniques do not tend to induce
2649 overconsumption or consumption by minors.

2650 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of
2651 wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such
2652 products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any
2653 Board limitations on the frequency of such gifts.

2654 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass,
2655 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board,
2656 with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2657 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic,
2658 metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a
2659 maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used
2660 only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops
2661 granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i)
2662 the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and
2663 (iv) the name and address of the retailer.

2664 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises
2665 and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-
2666 premises consumption in sealed containers made of metal or other materials approved by the Board with a
2667 maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic
2668 beverage is placed in the container following an order from the consumer.

2669 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages
2670 and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the
2671 Board.

2672 21. Establish and make available to all licensees and permittees for which on-premises consumption of
2673 alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or
2674 otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training
2675 module, which shall include (i) information that enables licensees, permittees, and their employees to recognize
2676 situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from
2677 culminating in sexual assault.

2678 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available
2679 for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be
2680 available in all areas of the licensed premises in which spirits are sold or served.

2681 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2682 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other
2683 documents necessary to verify the licensee's compliance with applicable minimum food sale requirements
2684 within 30 days of the date such records or documents are due.

2685 C. The Board may promulgate regulations that:

2686 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based
2687 on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the
2688 applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause
2689 (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting
2690 of such waiver shall be limited to two events per year for each applicant.

2691 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of
2692 any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

2693 3. Provide incentives to licensees with a proven history of compliance with state and federal laws and
2694 regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial
2695 to the Commonwealth.

2696 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
2697 licensees.

2698 E. Courts shall take judicial notice of Board regulations.

2699 F. The Board's power to regulate shall be broadly construed.

2700 **§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

2701 A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the
2702 road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement
2703 is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue,
2704 mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher
2705 education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for
2706 residential use.

2707 B. However, (i) if there is no building or structure on a playground or similar recreational facility, the
2708 measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the
2709 property line of such playground or similar recreational facility and (ii) if a public or private school providing
2710 grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest
2711 edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure
2712 located on such real property across the road.

2713 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a
2714 church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an
2715 institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a
2716 dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in
2717 violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of
2718 the term of any written advertising contract, but in no event more than one year from the date of the change in
2719 circumstances.

2720 D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon
2721 a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to
2722 alcoholic beverage advertising.

2723 E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions
2724 contained in this section shall not apply to:

2725 1. Signs placed by licensees upon the property on which the licensed premises are located; or

2726 2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand
2727 names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

2728 F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included
2729 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its
2730 agents.

2731 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic
2732 beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this
2733 section be construed to authorize the erection of new billboard signs containing outdoor advertising that would
2734 be prohibited under state law or local ordinance.

2735 H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~
2736 *subtitle*, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant
2737 thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign
2738 located or to be located on highway rights of way shall also be governed by and comply with the Integrated
2739 Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2740 **§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.**

2741 All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~ *subtitle*,
2742 Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto
2743 by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located
2744 or to be located on highway rights-of-way shall also be governed by and comply with the Integrated Directional
2745 Sign Program administered by the Virginia Department of Transportation or its agents.

2746 **§ 4.1-115. Reports and accounting systems of Board; auditing books and records.**

2747 A. The Board shall make reports to the Governor as he may require covering the administration and
2748 enforcement of this ~~title~~ *subtitle*. Additionally, the Board shall submit an annual report to the Governor and
2749 General Assembly on or before December 15 each year, which shall contain:

2750 1. A statement of the nature and amount of the business transacted by each government store during the
2751 year;

2752 2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and
2753 such other financial statements and matters as may be necessary to show the result of the operations of the
2754 Board for the year;

2755 3. A statement showing the taxes collected under this ~~title~~ *subtitle* during the year;

2756 4. General information and remarks about the working of the alcoholic beverage control laws within the
2757 Commonwealth; and

2758 5. Any other information requested by the Governor.

2759 B. The Board shall maintain an accounting system in compliance with generally accepted accounting
2760 principles and approved in accordance with § 2.2-803.

2761 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of
2762 a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor
2763 of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be
2764 borne by the Board. The Board may order such other audits as it deems necessary.

2765 **§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.**

2766 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be
2767 deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries,
2768 fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

2769 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be
2770 set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and
2771 remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in
2772 establishing and maintaining government stores and in the administration of the provisions of this ~~title~~ *subtitle*,
2773 including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic
2774 beverages.

2775 B. The net profits derived under the provisions of this ~~title~~ *subtitle* shall be transferred by the Comptroller
2776 to the general fund of the state treasury quarterly, within fifty days after the close of each quarter or as otherwise
2777 provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits
2778 quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the
2779 administration of this ~~title~~ *subtitle* and to provide for the depreciation on the buildings, plants and equipment
2780 owned, held or operated by the Board.

2781 C. The term "net profits" as used in this section means the total of all moneys collected by the Board less
2782 all costs, expenses and charges authorized by this section.

2783 **§ 4.1-118. Certain information not to be made public.**

2784 Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records
2785 required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by
2786 wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any
2787 person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to
2788 this ~~title~~ *subtitle* and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer
2789 and wine licensees.

2790 Nothing contained in this section shall prohibit the use or release of such information or documents by the
2791 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,
2792 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

2793 Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member
2794 of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as
2795 such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total
2796 quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer
2797 for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales
2798 in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales
2799 submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the
2800 licensee.

2801 **§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.**

2802 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate
2803 government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries,
2804 low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including
2805 any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board
2806 from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such
2807 counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

2808 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to
2809 farm wineries that produce 2,500 cases or less of wine or cider per year.

2810 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of
2811 alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the
2812 cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic
2813 beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i)
2814 authorized and operating under the laws of the United States and regulations of the United States Department
2815 of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
2816 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other
2817 authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix
2818 the retail price of alcoholic beverages sold at government stores, which retail price may include promotional,
2819 volume, or other discounts deemed appropriate by the Board.

2820 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry
2821 out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and
2822 the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers
2823 and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by
2824 or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)
2825 on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the
2826 purpose of featuring and educating the consuming public about spirits products.

2827 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this
2828 ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed
2829 distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this
2830 subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller
2831 makes application and meets certain requirements established by the Board, such agreement shall allow monthly
2832 revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding

2833 the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and
2834 markups.

2835 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and
2836 shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to
2837 be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic
2838 beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

2839 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive
2840 character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon
2841 permits issued by the Board for industrial, commercial, culinary, or medical use.

2842 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G
2843 sold in government stores established by the Board on a distiller's licensed premises, shall be in closed
2844 containers, sealed and affixed with labels prescribed by the Board.

2845 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an
2846 organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or
2847 (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the
2848 Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any
2849 consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample
2850 may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-
2851 304.

2852 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant
2853 to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may
2854 be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are
2855 manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery,
2856 brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-
2857 half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain
2858 up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products
2859 or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per
2860 day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing
2861 in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such
2862 mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on
2863 contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such
2864 samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent
2865 of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties
2866 of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed
2867 distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or
2868 on contiguous premises of the licensed distillery shall be purchased from the Board.

2869 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

2870 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment
2871 area to the tasting area of a government store established by the Board on the distiller's licensed premises shall
2872 be waived if such spirits are moved by employees of the licensed distiller.

2873 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment
2874 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to
2875 the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees
2876 on Board policies relating to the assignment of government stores from which licensees may purchase products
2877 and any procedure for the licensee to elect to make purchases from an alternative government store.

2878 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment
2879 for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit
2880 card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related
2881 fees, penalties and service charges for the use of a credit card or debit card by any consumer.

2882 J. Before the Authority implements any increase in the markup on distilled spirits or any change to the
2883 markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of
2884 distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a
2885 price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the
2886 proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding
2887 the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price
2888 increase.

2889 **§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.**

2890 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate
2891 government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries,
2892 low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including
2893 any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board
2894 from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such
2895 counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

2896 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to
2897 farm wineries that produce 2,500 cases or less of wine or cider per year.

2898 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of
2899 alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the
2900 cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic
2901 beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i)
2902 authorized and operating under the laws of the United States and regulations of the United States Department
2903 of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
2904 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other
2905 authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix
2906 the retail price of alcoholic beverages sold at government stores, which retail price may include promotional,
2907 volume, or other discounts deemed appropriate by the Board.

2908 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry
2909 out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and
2910 the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers
2911 and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by
2912 or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)
2913 on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the
2914 purpose of featuring and educating the consuming public about spirits products.

2915 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this
2916 ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed
2917 distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this
2918 subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller
2919 makes application and meets certain requirements established by the Board, such agreement shall allow monthly
2920 revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding
2921 the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and
2922 markups.

2923 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and
2924 shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to
2925 be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic
2926 beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

2927 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive
2928 character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon
2929 permits issued by the Board for industrial, commercial, culinary, or medical use.

2930 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G
2931 sold in government stores established by the Board on a distiller's licensed premises, shall be in closed
2932 containers, sealed and affixed with labels prescribed by the Board.

2933 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an
2934 organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or
2935 (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the
2936 Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any
2937 consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample
2938 may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-
2939 304.

2940 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant
2941 to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may
2942 be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are
2943 manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery,
2944 brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-
2945 half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain
2946 up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three
2947 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method
2948 is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from
2949 serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or
2950 vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery,
2951 provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises
2952 or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D
2953 may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the
2954 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such
2955 samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery
2956 shall be purchased from the Board.

2957 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

2958 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment
2959 area to the tasting area of a government store established by the Board on the distiller's licensed premises shall
2960 be waived if such spirits are moved by employees of the licensed distiller.

2961 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment
2962 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to
2963 the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees
2964 on Board policies relating to the assignment of government stores from which licensees may purchase products
2965 and any procedure for the licensee to elect to make purchases from an alternative government store.

2966 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment
2967 for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit
2968 card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related
2969 fees, penalties and service charges for the use of a credit card or debit card by any consumer.

2970 J. Before the Authority implements any increase in the markup on distilled spirits or any change to the
2971 markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of
2972 distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a
2973 price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the
2974 proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding
2975 the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price
2976 increase.

2977 **§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

2978 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate
2979 government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries,

2980 low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including
2981 any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board
2982 from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such
2983 counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

2984 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to
2985 farm wineries that produce 2,500 cases or less of wine or cider per year.

2986 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of
2987 alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the
2988 cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic
2989 beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i)
2990 authorized and operating under the laws of the United States and regulations of the United States Department
2991 of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
2992 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other
2993 authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix
2994 the retail price of alcoholic beverages sold at government stores, which retail price may include promotional,
2995 volume, or other discounts deemed appropriate by the Board.

2996 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry
2997 out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and
2998 the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers
2999 and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by
3000 or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)
3001 on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the
3002 purpose of featuring and educating the consuming public about spirits products.

3003 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this
3004 ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed
3005 distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this
3006 subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller
3007 makes application and meets certain requirements established by the Board, such agreement shall allow monthly
3008 revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding
3009 the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and
3010 markups.

3011 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and
3012 shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to
3013 be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic
3014 beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

3015 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive
3016 character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon
3017 permits issued by the Board for industrial, commercial, culinary, or medical use.

3018 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G
3019 sold in government stores established by the Board on a distiller's licensed premises, shall be in closed
3020 containers, sealed and affixed with labels prescribed by the Board.

3021 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an
3022 organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or
3023 (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the
3024 Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any
3025 consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample
3026 may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-
3027 304.

3028 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant
3029 to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may

3030 be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are
3031 manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery,
3032 brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-
3033 half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain
3034 up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three
3035 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method
3036 is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from
3037 serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or
3038 vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery,
3039 provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises
3040 or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D
3041 may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the
3042 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such
3043 samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery
3044 shall be purchased from the Board.

3045 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

3046 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment
3047 area to the tasting area of a government store established by the Board on the distiller's licensed premises shall
3048 be waived if such spirits are moved by employees of the licensed distiller.

3049 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment
3050 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to
3051 the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees
3052 on Board policies relating to the assignment of government stores from which licensees may purchase products
3053 and any procedure for the licensee to elect to make purchases from an alternative government store.

3054 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment
3055 for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit
3056 card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related
3057 fees, penalties and service charges for the use of a credit card or debit card by any consumer.

3058 J. Before the Authority implements any increase in the markup on distilled spirits or any change to the
3059 markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of
3060 distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a
3061 price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the
3062 proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding
3063 the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price
3064 increase.

3065 **§ 4.1-122. Effect of local option referenda.**

3066 A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of
3067 the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of
3068 the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages
3069 voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of
3070 such county, city, or town authorized under this ~~title~~ subtitle to acquire the alcoholic beverages for resale. This
3071 subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to
3072 bona fide passengers.

3073 B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters
3074 have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent election a
3075 majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such
3076 alcoholic beverages may, in accordance with this ~~title~~ subtitle, be sold within the county, city, or town on and
3077 after 60 days from the day on which the order of the court setting forth the results of such election is entered of
3078 record.

3079 C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election
 3080 district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of
 3081 alcoholic beverages, other than beer and wine not produced by farm wineries, shall be prohibited in such county,
 3082 town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under
 3083 § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election
 3084 district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the
 3085 appropriate license fees are paid for the privilege.

3086 D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or
 3087 shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic
 3088 beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any
 3089 county, city, or town, except as otherwise prohibited by this ~~title~~ subtitle.

3090 E. For the purpose of this section, when any referendum is held in any town, separate and apart from the
 3091 county in which such town or a part thereof is located, such town shall be treated as being separate and apart
 3092 from such county.

3093 **§ 4.1-124. (Effective until July 1, 2021) Referendum on the sale of mixed beverages.**

3094 A. The provisions of this ~~title~~ subtitle relating to the sale of mixed beverages shall be effective in any town,
 3095 county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote
 3096 "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~
 3097 subtitle should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county
 3098 may file a petition with the circuit court of the county asking that a referendum be held on the question of
 3099 whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that
 3100 jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number
 3101 registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100
 3102 qualified voters, whichever is greater.

3103 Petition requirements for any county shall be based on the number of registered voters in the county,
 3104 including the number of registered voters in any town having a population in excess of 1,000 located within
 3105 such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election
 3106 officials of the county to conduct a referendum on the question.

3107 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general
 3108 circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior
 3109 to the referendum.

3110 The question on the ballot shall be:

3111 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage
 3112 Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of
 3113 county)?"

3114 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et
 3115 seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the
 3116 court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages
 3117 prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's
 3118 election district of a county on or after 30 days following the entry of the order if a majority of the voters voting
 3119 in the referendum have voted "Yes."

3120 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the
 3121 same extent and subject to the same conditions and limitations as are otherwise applicable to counties under
 3122 this section. Such towns shall be treated as separate local option units, and only residents of any such town shall
 3123 be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having
 3124 a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this
 3125 section for any county in which the town is located.

3126 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
 3127 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et
 3128 seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed

3129 under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters
3130 voting in such referendum voted "Yes."

3131 B. Once a referendum has been held, no other referendum on the same question shall be held in the town,
3132 county, or supervisor's election district of a county for a period of 23 months.

3133 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property
3134 dedicated for industrial or commercial development and controlled through the provision of public utilities and
3135 covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter
3136 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement
3137 between three or more counties, cities, or towns and such jurisdictions participate administratively and
3138 financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties,
3139 cities, towns, or a supervisor's election district of one of the counties and that the governing board of the
3140 authority authorizes an establishment located within the confines of such property to apply to the Board for
3141 such license. The appropriate license fees shall be paid for this privilege.

3142 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale
3143 of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by
3144 farm wineries by the Board, shall be allowed in any city in the Commonwealth.

3145 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license
3146 to a restaurant located on the premises of and operated by a private club exclusively for its members and their
3147 guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210.
3148 However, no license authorized by this subsection shall be granted if the private club restricts its membership
3149 on the basis of race, color, creed, national origin or sex.

3150 **§ 4.1-124. (Effective July 1, 2021) Referendum on the sale of mixed beverages.**

3151 A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town,
3152 county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote
3153 "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~
3154 *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county
3155 may file a petition with the circuit court of the county asking that a referendum be held on the question of
3156 whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that
3157 jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number
3158 registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100
3159 qualified voters, whichever is greater.

3160 Petition requirements for any county shall be based on the number of registered voters in the county,
3161 including the number of registered voters in any town having a population in excess of 1,000 located within
3162 such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election
3163 officials of the county to conduct a referendum on the question.

3164 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general
3165 circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior
3166 to the referendum.

3167 The question on the ballot shall be:

3168 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage
3169 Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of
3170 county)?"

3171 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et
3172 seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the
3173 court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages
3174 prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's
3175 election district of a county on or after 30 days following the entry of the order if a majority of the voters voting
3176 in the referendum have voted "Yes."

3177 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the
3178 same extent and subject to the same conditions and limitations as are otherwise applicable to counties under

3179 this section. Such towns shall be treated as separate local option units, and only residents of any such town shall
3180 be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having
3181 a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this
3182 section for any county in which the town is located.

3183 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
3184 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et
3185 seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed
3186 under this ~~title~~ subtitle should be prohibited was previously held in the former city and a majority of the voters
3187 voting in such referendum voted "Yes."

3188 B. Once a referendum has been held, no other referendum on the same question shall be held in the town,
3189 county, or supervisor's election district of a county for a period of 23 months.

3190 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property
3191 dedicated for industrial or commercial development and controlled through the provision of public utilities and
3192 covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter
3193 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement
3194 between three or more counties, cities, or towns and such jurisdictions participate administratively and
3195 financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties,
3196 cities, towns, or a supervisor's election district of one of the counties and that the governing board of the
3197 authority authorizes an establishment located within the confines of such property to apply to the Board for
3198 such license. The appropriate license fees shall be paid for this privilege.

3199 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale
3200 of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by
3201 farm wineries by the Board, shall be allowed in any city in the Commonwealth.

3202 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license
3203 to a restaurant located on the premises of and operated by a private club exclusively for its members and their
3204 guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3.
3205 However, no license authorized by this subsection shall be granted if the private club restricts its membership
3206 on the basis of race, color, creed, national origin, or sex.

3207 **§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.**

3208 A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or
3209 resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution,
3210 handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth.
3211 Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage,
3212 warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law
3213 at a licensed farm winery.

3214 No provision of law, general or special, shall be construed to authorize any county, city or town to adopt
3215 any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes
3216 authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any
3217 county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the
3218 sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee
3219 specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by
3220 general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same
3221 as if they were nonalcoholic beverages.

3222 B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the
3223 acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the
3224 acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of
3225 § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks,
3226 playgrounds, public streets, and any sidewalk adjoining any public street.

3227 C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities
 3228 and towns, inconsistent with any of the provisions of this ~~title~~ *subtitle*, are repealed to the extent of such
 3229 inconsistency.

3230 **§ 4.1-200. Exemptions from licensure.**

3231 The licensure requirements of this chapter shall not apply to:

3232 1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons
 3233 in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be
 3234 administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the
 3235 same, either by way of external application or otherwise for emergency medicinal purposes. Such person may
 3236 charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose.
 3237 No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have
 3238 been supplied to the institution by the Board free of charge.

3239 2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in
 3240 such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3241 3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in
 3242 such business of any medicinal preparations manufactured in accordance with formulas prescribed by the
 3243 United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide
 3244 medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal
 3245 properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the
 3246 medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used
 3247 exclusively as medicine and not as beverages.

3248 4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and
 3249 solutions not intended for internal human use nor to be sold as beverages.

3250 5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold
 3251 for cooking and culinary purposes only and not sold as beverages.

3252 6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption
 3253 at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or
 3254 both, in an amount not to exceed the limits permitted by federal law.

3255 Any person who manufactures wine or beer in accordance with this subdivision may remove from his
 3256 residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any one occasion
 3257 for (i) personal or family use, provided such use does not violate the provisions of this ~~title~~ *subtitle* or Board
 3258 regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a)
 3259 one liter of wine per person per year or (b) seventy-two ounces of beer per person per year, provided such gift
 3260 is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of
 3261 such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-
 3262 premises consumption at events organized for judging or exhibiting such wine or beer, including events held
 3263 on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such
 3264 wine or beer.

3265 The provision of this subdivision shall not apply to any person who resides on property on which a winery,
 3266 farm winery, or brewery is located.

3267 7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his
 3268 personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such
 3269 residence by such person, his family or servants when (i) such guests are 21 years of age or older or are
 3270 accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession
 3271 of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic
 3272 beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no
 3273 way a shift or device to evade the provisions of this ~~title~~ *subtitle*. The provisions of this subdivision shall not
 3274 apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of
 3275 a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently
 3276 resides in the residence is present during the short-term rental.

3277 8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures
3278 wine from grapes grown by such person and sells it to winery licensees.

3279 9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when
3280 permitted by the proper authority of the United States.

3281 10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or
3282 private party limited in attendance to members and guests of a particular group, association or organization at
3283 a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet
3284 license shall be required for private meetings or private parties limited in attendance to the members of a
3285 common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages
3286 shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is
3287 limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii)
3288 such meetings or parties are not open to the public.

3289 **§ 4.1-201. (Effective until July 1, 2021) Conduct not prohibited by this subtitle; limitation.**

3290 A. Nothing in this ~~title~~ subtitle or any Board regulation adopted pursuant thereto shall prohibit:

3291 1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic
3292 beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or
3293 given away in violation of this ~~title~~ subtitle.

3294 2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully
3295 produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board
3296 or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations.
3297 However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in
3298 accordance with Board regulations.

3299 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic
3300 beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic
3301 beverages.

3302 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed
3303 containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons
3304 licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as
3305 provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States
3306 sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for
3307 resale outside the Commonwealth.

3308 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such
3309 license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the
3310 places of business or establishments for which the retail licenses are desired are located upon the premises
3311 occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous
3312 to such premises, or in a development contiguous to such premises owned and operated by such person or a
3313 wholly owned subsidiary.

3314 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine
3315 and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic
3316 beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for
3317 resale outside the Commonwealth.

3318 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers
3319 from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery
3320 licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed
3321 containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of
3322 wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such
3323 wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of
3324 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

3325 8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from
3326 fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery

3327 or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the
3328 Commonwealth for resale outside of the Commonwealth.

3329 9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another
3330 farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and
3331 the return of the wine so bottled to the manufacturing farm winery or winery licensee.

3332 10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers
3333 to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving
3334 licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural
3335 product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh
3336 fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to
3337 the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits
3338 or agricultural products used to produce the wine so transferred.

3339 11. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to persons to
3340 whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-premises wine or
3341 beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic
3342 beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or
3343 employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be
3344 lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall
3345 not exceed four ounces, and samples of spirits shall not exceed one-half ounce. No more than two product
3346 samples shall be given to any person per visit.

3347 12. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed
3348 in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail
3349 licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed
3350 establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his
3351 payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each
3352 sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property
3353 normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers
3354 including, but not limited to, glasses, napkins, buckets, and coasters.

3355 13. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the
3356 Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including
3357 wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such
3358 items may be distributed to retail licensees in quantities equal to the number of employees of the retail
3359 establishment present at the time the items are delivered. Thereafter, such employees may wear or display the
3360 items on the licensed premises.

3361 14. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale or selling
3362 for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers
3363 consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent
3364 or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be
3365 lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

3366 15. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine,
3367 beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided
3368 that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell
3369 such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by
3370 the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such
3371 customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such
3372 customer.

3373 16. Any winery, farm winery, wine importer, or wine wholesaler licensee from providing to adult customers
3374 of licensed retail establishments information about wine being consumed on such premises.

3375 17. Any private swim club operated by a duly organized nonprofit corporation or association from allowing
3376 members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such
3377 alcoholic beverages on the premises of such club.

3378 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale
3379 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving
3380 or selling the same.

3381 **§ 4.1-201. (Effective July 1, 2021) Conduct not prohibited by this subtitle; limitation.**

3382 A. Nothing in this ~~title~~ *subtitle* or any Board regulation adopted pursuant thereto shall prohibit:

3383 1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic
3384 beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or
3385 given away in violation of this ~~title~~ *subtitle*.

3386 2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully
3387 produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board
3388 or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations.
3389 However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in
3390 accordance with Board regulations.

3391 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic
3392 beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic
3393 beverages.

3394 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed
3395 containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons
3396 licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as
3397 provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States
3398 sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for
3399 resale outside the Commonwealth.

3400 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such
3401 license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the
3402 places of business or establishments for which the retail licenses are desired are located upon the premises
3403 occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous
3404 to such premises, or in a development contiguous to such premises owned and operated by such person or a
3405 wholly owned subsidiary.

3406 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine
3407 and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic
3408 beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for
3409 resale outside the Commonwealth.

3410 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers
3411 from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery
3412 licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed
3413 containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of
3414 wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such
3415 wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of
3416 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

3417 8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another
3418 farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and
3419 the return of the wine so bottled to the manufacturing farm winery or winery licensee.

3420 9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers
3421 to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving
3422 licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural
3423 product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh
3424 fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to

3425 the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits
3426 or agricultural products used to produce the wine so transferred.

3427 10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a sample of
3428 wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or
3429 any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons
3430 to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not
3431 exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-
3432 half ounce, unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-
3433 half ounces of spirits. No more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be
3434 given to any person per day.

3435 11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed
3436 in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail
3437 licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed
3438 establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his
3439 payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each
3440 sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property
3441 normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers
3442 including, but not limited to, glasses, napkins, buckets, and coasters.

3443 12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the
3444 Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including
3445 wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such
3446 items may be distributed to retail licensees in quantities equal to the number of employees of the retail
3447 establishment present at the time the items are delivered. Thereafter, such employees may wear or display the
3448 items on the licensed premises.

3449 13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale or selling
3450 for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers
3451 consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent
3452 or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be
3453 lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

3454 14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine,
3455 beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided
3456 that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell
3457 such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by
3458 the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such
3459 customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such
3460 customer.

3461 15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer importer,
3462 beer wholesaler, or distiller licensee from providing to adult customers of licensed retail establishments
3463 information about wine, beer, or spirits being consumed on such premises.

3464 16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing
3465 members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such
3466 alcoholic beverages on the premises of such club.

3467 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale
3468 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving
3469 or selling the same.

3470 **§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.**

3471 The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and to all
3472 agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under such
3473 license. The licensee may be held liable for any violation of this ~~title~~ subtitle or any Board regulation committed
3474 by such agents or employees in connection with their employment.

3475 § 4.1-205. (Effective until July 1, 2021) Local licenses.

3476 A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or
3477 town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to
3478 charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic
3479 beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to
3480 § 4.1-233, the governing body of a county, city or town may classify licenses and graduate the license taxes
3481 therefor in the manner it deems proper.

3482 B. No county, city or town shall issue a local license to any person who does not hold or secure
3483 simultaneously the proper state license. If any person holds any local license without at the same time holding
3484 the proper state license, the local license, during the period when such person does not hold the proper state
3485 license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

3486 § 4.1-205. (Effective July 1, 2021) Local licenses.

3487 A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or
3488 town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to
3489 charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic
3490 beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to
3491 § 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes
3492 therefor in the manner it deems proper.

3493 B. No county, city, or town shall issue a local license to any person who does not hold or secure
3494 simultaneously the proper state license. If any person holds any local license without at the same time holding
3495 the proper state license, the local license, during the period when such person does not hold the proper state
3496 license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

3497 § 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.

3498 A. The Board may grant the following licenses relating to alcoholic beverages generally:

3499 1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine
3500 and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers,
3501 to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board
3502 has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119,
3503 such license shall also authorize the licensee to make a charge to consumers to participate in an organized
3504 tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

3505 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land
3506 zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are
3507 grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated
3508 as distillers for all purposes of this ~~title~~ subtitle except as otherwise provided in this subdivision. For purposes
3509 of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or
3510 (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned
3511 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
3512 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3513 3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made
3514 from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in
3515 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
3516 Commonwealth.

3517 4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services
3518 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages
3519 on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for
3520 a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee
3521 or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer
3522 fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized
3523 by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board
3524 regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency

3525 station, provided such other premises are occupied and under the control of the volunteer fire department or
3526 volunteer emergency medical services agency while the privileges of its license are being exercised.

3527 5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining
3528 areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided,
3529 with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the
3530 amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the
3531 consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided
3532 in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For
3533 purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous
3534 to the licensed premises, which may have more than one means of ingress and egress to an adjacent public
3535 thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the
3536 Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to
3537 subdivision A 5 of § 4.1-201.

3538 6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the
3539 type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued
3540 for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A
3541 separate license shall be required for each day of each tasting event. No tasting license shall be required for
3542 conduct authorized by § 4.1-201.1.

3543 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3)
3544 of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully
3545 acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and
3546 (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof.
3547 However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3548 license shall be limited to the premises of the museum, regularly occupied and utilized as such.

3549 8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and
3550 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic
3551 beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages
3552 shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to
3553 the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and
3554 (ii) exercised on no more than four calendar days per year.

3555 9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired
3556 wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or
3557 beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more
3558 than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or
3559 otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license
3560 shall be limited to the premises of the day spa regularly occupied and utilized as such.

3561 10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption
3562 of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events.
3563 However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee.
3564 The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board
3565 that are regularly occupied and utilized for motor car sporting events.

3566 11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises
3567 of the licensee to any such bona fide customer attending either a private gathering or a special event; however,
3568 the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
3569 such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or
3570 consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly
3571 occupied and utilized as such.

3572 12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully
3573 acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private
3574 gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for

3575 the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the
3576 licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon
3577 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages
3578 on the premises in all areas and locations covered by the license.

3579 13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee
3580 participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the
3581 premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be
3582 sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than
3583 two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this
3584 license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised
3585 on no more than 12 calendar days per year.

3586 14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises
3587 of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce
3588 glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee
3589 to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the
3590 premises of the art instruction studio regularly occupied and utilized as such.

3591 15. Commercial lifestyle center license, which may be issued only to a commercial owners' association
3592 governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is
3593 a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom
3594 alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the
3595 commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways,
3596 or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is
3597 not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic
3598 beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed
3599 premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic,
3600 or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage
3601 clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle
3602 center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries
3603 of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall
3604 provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3605 ~~title~~ *subtitle* and Board regulations.

3606 16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises
3607 for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol
3608 contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

3609 17. Local special events license, which may be issued only to a locality, business improvement district, or
3610 nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic
3611 beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises
3612 licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages
3613 within the permanent retail location for consumption in the area designated for the special event, including
3614 sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of
3615 such businesses. In determining the designated area for the special event, the Board shall consult with the
3616 locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any
3617 special event shall not exceed three consecutive days. Such limitations on the number of special events that
3618 may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the
3619 Governor or State Health Commissioner to meet a public health emergency and that effectively reduces
3620 allowable restaurant seating capacity; however, local special events licensees shall be subject to all other
3621 applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding
3622 the days and times during which the privileges of the license will be exercised. Only alcoholic beverages
3623 purchased from permanent retail on-premises licensees located within the designated area may be consumed at
3624 the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable

3625 containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic
3626 beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special
3627 events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the
3628 public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The
3629 local special events licensee shall provide adequate security for the special event to ensure compliance with the
3630 applicable provisions of this ~~title~~ *subtitle* and Board regulations.

3631 18. Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of
3632 lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member
3633 and up to two guests of each member, provided that such member and guests are persons who may lawfully
3634 consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on
3635 the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each
3636 member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully
3637 served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses
3638 of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For
3639 purposes of this subdivision, the payment of membership dues by a member to the coworking establishment
3640 shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for
3641 which the amount of membership dues increases. The privileges of this license shall be limited to the premises
3642 of the coworking establishment, regularly occupied and utilized as such.

3643 19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-
3644 premises consumption upon the licensed premises approved by the Board to any member; however, the licensee
3645 shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such
3646 customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed.
3647 For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier
3648 establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a
3649 privilege for which the amount of membership dues increases. The privileges of this license shall be limited to
3650 the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

3651 B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in
3652 accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an agricultural
3653 district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to
3654 continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a
3655 subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer,
3656 acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential
3657 conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long
3658 as specifically approved by the locality by special exception. Any such limited distillery located on land zoned
3659 residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically
3660 approved by the locality by special exception. All such licensees shall comply with the requirements of this ~~title~~
3661 *subtitle* and Board regulations for renewal of such license or the issuance of a new license in the event of a
3662 change in ownership of the limited distillery on or after July 1, 2016.

3663 **§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.**

3664 The Board may grant the following manufacturer licenses:

3665 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine
3666 and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers,
3667 to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board
3668 has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119,
3669 such license shall also authorize the licensee to make a charge to consumers to participate in an organized
3670 tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

3671 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land
3672 zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are
3673 grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated
3674 as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision. For purposes

3675 of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or
3676 (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned
3677 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
3678 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3679 3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship
3680 the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to
3681 sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth.
3682 Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the
3683 brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of
3684 the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed
3685 premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-
3686 premises consumption.

3687 4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar
3688 year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and
3689 owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains,
3690 hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises
3691 shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops,
3692 or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises
3693 of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However,
3694 the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also
3695 approve other portions of the farm to be included as part of the licensed premises. For purposes of this
3696 subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b)
3697 land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned
3698 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
3699 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3700 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ *subtitle* except as
3701 otherwise provided in this subdivision.

3702 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship
3703 the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so
3704 manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
3705 outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling
3706 equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which
3707 shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking
3708 facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded
3709 warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the
3710 place of business designated in the winery license for on-premises consumption or in closed containers for off-
3711 premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a
3712 wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed
3713 premises.

3714 6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or
3715 less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed
3716 containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose
3717 of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive
3718 deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations,
3719 to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the
3720 Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with
3721 Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits
3722 issued by the Board. For the purposes of this ~~title~~ *subtitle*, a farm winery license shall be designated either as a
3723 Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery

3724 may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee
3725 operating a contract winemaking facility.

3726 Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in
3727 the licenses, which may include no more than five additional retail establishments of the licensee. Wine may
3728 be sold at these business places for on-premises consumption and in closed containers for off-premises
3729 consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a
3730 wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-
3731 premises consumption at these business places.

3732 7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to
3733 sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the
3734 Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the
3735 Commonwealth for resale outside the Commonwealth.

3736 8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to
3737 sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the
3738 Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the
3739 Commonwealth for resale outside the Commonwealth.

3740 **§ 4.1-206.2. (Effective July 1, 2021) Wholesale licenses.**

3741 The Board may grant the following wholesale licenses:

3742 1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
3743 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license,
3744 in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such
3745 beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United
3746 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
3747 for resale outside the Commonwealth.

3748 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who
3749 does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and
3750 purchases beer for resale pursuant to the privileges of such beer importer's license.

3751 2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize the
3752 licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from
3753 one or more premises identified in the license, in accordance with Board regulations, in closed containers, to
3754 (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale
3755 outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners
3756 of boats registered under the laws of the United States sailing for ports of call of a foreign country or another
3757 state.

3758 No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who
3759 does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and
3760 purchases wine for resale pursuant to the privileges of such wine importer's license.

3761 3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in
3762 accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and
3763 farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery
3764 licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution
3765 services in accordance with the terms of a written agreement approved by the corporation between it and the
3766 winery or farm winery licensee, which shall comply with the provisions of this ~~title~~ *subtitle* and Board
3767 regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations
3768 governing wholesale wine licenses granted under subdivision 2.

3769 **§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.**

3770 A. The Board may grant the following mixed beverages licenses:

3771 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages
3772 for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only
3773 to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared,

3774 and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such
3775 license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the
3776 purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not
3777 contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and
3778 egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved
3779 by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant
3780 to subdivision A 5 of § 4.1-201.

3781 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms
3782 where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and
3783 other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for
3784 consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in
3785 original closed containers purchased from the Board for on-premises consumption to registered guests and at
3786 scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a
3787 hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic
3788 beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit
3789 any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

3790 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively
3791 for its members and their guests, or members of another private, nonprofit, or profit club in another city with
3792 which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1)
3793 sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original
3794 closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board
3795 for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food
3796 requirements from a restaurant licensed by the Board and located on another portion of the premises of the same
3797 hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying
3798 in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises
3799 and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of
3800 its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club
3801 shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

3802 If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall
3803 recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for
3804 those months when weather conditions may reduce patronage of the golf course, provided that prepared food,
3805 including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked,
3806 or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the
3807 issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed
3808 beverages and food on an annualized basis.

3809 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall
3810 authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the
3811 amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the
3812 licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under
3813 the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic
3814 beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

3815 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
3816 license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises
3817 consumption; however, the licensee shall be required to pay the local fee required for such additional license
3818 pursuant to § 4.1-233.1.

3819 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the
3820 business of providing food and beverages to others for service at private gatherings or at special events, which
3821 shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross
3822 receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings

3823 and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale
3824 of mixed beverages and food.

3825 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in
3826 the business of providing food and beverages to others for service at private gatherings or at special events, not
3827 to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic
3828 beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared
3829 for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall
3830 amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3831 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus,
3832 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the
3833 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of
3834 establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well
3835 as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint
3836 an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store
3837 alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto
3838 airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for
3839 purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which
3840 the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier
3841 and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized
3842 representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee
3843 to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-
3844 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3845 license pursuant to § 4.1-233.1.

3846 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed
3847 beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled
3848 events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities,
3849 seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption.
3850 Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i)
3851 is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in
3852 length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep
3853 and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
3854 by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee
3855 to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-
3856 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3857 license pursuant to § 4.1-233.1.

3858 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert
3859 wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be
3860 combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such
3861 license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or
3862 liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total
3863 annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision
3864 shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises
3865 consumption or in closed containers for off-premises consumption; however, the licensee shall be required to
3866 pay the local fee required for such additional license pursuant to § 4.1-233.1.

3867 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on
3868 the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in
3869 single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession
3870 areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically
3871 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in

3872 closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee
3873 required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

3874 a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i)
3875 is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original
3876 term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic
3877 preservation standards;

3878 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the
3879 City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
3880 or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of
3881 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has
3882 monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and
3883 nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board
3884 regulations for mixed beverage restaurants;

3885 c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro,
3886 provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession
3887 agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons;
3888 and (iii) has been rehabilitated in accordance with historic preservation standards;

3889 d. Persons operating food concessions at any performing arts facility located in the arts and cultural district
3890 of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-
3891 term lease or concession agreement, the original term of which was more than five years; (ii) has been
3892 rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale
3893 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises
3894 that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;
3895 and (iv) has a total capacity in excess of 900 patrons;

3896 e. Persons operating food concessions at any multipurpose theater located in the historical district of the
3897 Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has
3898 a total capacity in excess of 100 patrons;

3899 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility
3900 that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia
3901 Beach;

3902 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility
3903 that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth;
3904 or

3905 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax
3906 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term
3907 lease, management, or concession agreement, the original term of which was more than one year and (ii) has a
3908 total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or
3909 events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by
3910 the Board.

3911 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or
3912 hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed
3913 beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the
3914 licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business
3915 premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant
3916 and catering operations. Such licensee shall meet the separate food qualifications established for the mixed
3917 beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to
3918 subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee
3919 to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-
3920 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3921 license pursuant to § 4.1-233.1.

3922 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining
3923 areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided,
3924 with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the
3925 amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the
3926 consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided
3927 in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For
3928 purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous
3929 to the licensed premises, which may have more than one means of ingress and egress to an adjacent public
3930 thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the
3931 Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to
3932 subdivision A 5 of § 4.1-201.

3933 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3)
3934 of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully
3935 acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and
3936 (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof.
3937 However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3938 license shall be limited to the premises of the museum, regularly occupied and utilized as such.

3939 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption
3940 of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events.
3941 However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee.
3942 The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board
3943 that are regularly occupied and utilized for motor car sporting events.

3944 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association
3945 governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is
3946 a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom
3947 alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the
3948 commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways,
3949 or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is
3950 not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic
3951 beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed
3952 premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic,
3953 or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage
3954 clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle
3955 center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries
3956 of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall
3957 provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3958 ~~title~~ *subtitle* and Board regulations.

3959 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed
3960 beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be
3961 granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located
3962 on property owned by the United States government or an agency thereof and used as a port of entry to or egress
3963 from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed
3964 on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to
3965 at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this
3966 subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed
3967 premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
3968 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such
3969 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5
3970 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
3971 obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-

3972 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3973 license pursuant to § 4.1-233.1.

3974 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
3975 association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit
3976 corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant
3977 in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar
3978 facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show
3979 areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or
3980 closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic
3981 interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises
3982 owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one
3983 year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events
3984 and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

3985 B. The Board may grant an on-and-off-premises wine and beer license to the following:

3986 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed
3987 containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in
3988 dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other
3989 designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard
3990 to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of
3991 alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited
3992 service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private
3993 guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-
3994 premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale
3995 of food prepared and consumed on the premises, provided that at least one meal is provided each day by the
3996 hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of
3997 Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any
3998 resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic
3999 beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated
4000 areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more
4001 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining
4002 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
4003 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

4004 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their
4005 on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first
4006 obtained or (ii) in closed containers for off-premises consumption.

4007 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
4008 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the
4009 grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it
4010 appears affirmatively that a substantial public demand for such licensed establishment exists and that public
4011 convenience and the purposes of this ~~title~~ *sub*title will be promoted by granting the license.

4012 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any
4013 event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession
4014 areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption
4015 or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises
4016 consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired
4017 alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be
4018 granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

4019 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the
4020 performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or
4021 other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic,

4022 or similar disposable containers or in single original metal cans for on-premises consumption. Upon
4023 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages
4024 on the premises in all areas and locations covered by the license. Such licenses may be granted to persons
4025 operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has
4026 seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;
4027 (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany,
4028 Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has
4029 capacity for more than 9,500 persons and is located in Henrico County.

4030 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or
4031 attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional
4032 locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii)
4033 in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption.
4034 Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
4035 beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to
4036 persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities
4037 located in any county operating under the urban county executive form of government or any city that is
4038 completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and
4039 "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility
4040 having in excess of 100,000 square feet of floor space.

4041 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to
4042 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining
4043 areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or
4044 in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve
4045 food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons
4046 operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge
4047 Station and formerly operated as Natural Bridge High School.

4048 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without
4049 meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold,
4050 for on-premises consumption or in closed containers for off-premises consumption. The privileges of this
4051 license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

4052 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption
4053 or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be
4054 granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal
4055 Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about
4056 historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly
4057 occupied and utilized as such.

4058 C. The Board may grant the following off-premises wine and beer licenses:

4059 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,
4060 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined
4061 in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed
4062 containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person
4063 to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however,
4064 no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer
4065 or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and
4066 beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming
4067 public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries,
4068 breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in
4069 such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales
4070 volume requirements established by Board regulation.

4071 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine
4072 or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to
4073 such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises
4074 consumption in accordance with subdivision 6 of § 4.1-200.

4075 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises
4076 for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol
4077 contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

4078 D. The Board may grant the following banquet, special event, and tasting licenses:

4079 1. Per-day event licenses.

4080 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
4081 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms
4082 or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees
4083 who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine,
4084 as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine
4085 may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided
4086 in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes
4087 of this subdivision, when the location named in the original application for a license is outdoors, the application
4088 may also name an alternative location in the event of inclement weather. However, no such license shall be
4089 required of any hotel, restaurant, or club holding a retail wine and beer license.

4090 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge
4091 of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises
4092 consumption in areas approved by the Board on the premises of the place designated in the license. A separate
4093 license shall be required for each day of each special event.

4094 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize
4095 the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests
4096 in areas approved by the Board on the club premises. A separate license shall be required for each day of each
4097 club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a
4098 license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and
4099 serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee
4100 required for such additional license pursuant to § 4.1-233.1.

4101 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the
4102 type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued
4103 for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A
4104 separate license shall be required for each day of each tasting event. No tasting license shall be required for
4105 conduct authorized by § 4.1-201.1.

4106 2. Annual licenses.

4107 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership
4108 organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively
4109 for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas
4110 approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall
4111 authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this
4112 subdivision, when the location named in the original application for a license is outdoors, the application may
4113 also name an alternative location in the event of inclement weather. However, no such license shall be required
4114 of any hotel, restaurant, or club holding a retail wine and beer license.

4115 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services
4116 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages
4117 on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for
4118 a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee
4119 or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer
4120 fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized

4121 by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board
4122 regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency
4123 station, provided such other premises are occupied and under the control of the volunteer fire department or
4124 volunteer emergency medical services agency while the privileges of its license are being exercised.

4125 c. Local special events licenses to a locality, business improvement district, or nonprofit organization,
4126 which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area
4127 designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located
4128 within the area designated by the Board for the special event to sell alcoholic beverages within the permanent
4129 retail location for consumption in the area designated for the special event, including sidewalks and the premises
4130 of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining
4131 the designated area for the special event, the Board shall consult with the locality. Local special events licensees
4132 shall be limited to 16 special events per year, and the duration of any special event shall not exceed three
4133 consecutive days. Such limitations on the number of special events that may be held shall not apply during the
4134 effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to
4135 meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however,
4136 local special events licensees shall be subject to all other applicable provisions of this ~~title~~ subtitle and Board
4137 regulations and shall provide notice to the Board regarding the days and times during which the privileges of
4138 the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees
4139 located within the designated area may be consumed at the special event, and such alcoholic beverages shall be
4140 contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail
4141 on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold
4142 or charged for in any way by the local special events licensee. The local special events licensee shall post
4143 appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical
4144 barriers shall be required for this purpose. The local special events licensee shall provide adequate security for
4145 the special event to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board regulations.

4146 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or
4147 charitable membership organizations that are exempt from state and federal taxation and in charge of banquets
4148 conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed
4149 beverages for on-premises consumption in areas approved by the Board on the premises of the place designated
4150 in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
4151 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
4152 license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to
4153 pay the local fee required for such additional license pursuant to § 4.1-233.1.

4154 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and
4155 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic
4156 beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages
4157 shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to
4158 the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and
4159 (ii) exercised on no more than four calendar days per year.

4160 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee
4161 participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the
4162 premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be
4163 sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than
4164 two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this
4165 license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised
4166 on no more than 12 calendar days per year.

4167 E. The Board may grant a marketplace license to persons operating a business enterprise of which the
4168 primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
4169 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed
4170 by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce

4171 glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine
4172 or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business
4173 enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized
4174 experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any
4175 other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises
4176 at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the
4177 Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain
4178 purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board
4179 shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of
4180 operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed
4181 necessary by the Board to protect the public health, safety, and welfare.

4182 F. The Board may grant the following shipper, bottler, and related licenses:

4183 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

4184 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the
4185 Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed
4186 containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises
4187 consumption. Such licensee shall not be required to comply with the monthly food sale requirement established
4188 by Board regulations.

4189 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of
4190 beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i)
4191 wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United
4192 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
4193 for resale outside the Commonwealth.

4194 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place
4195 of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by
4196 holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick,
4197 pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No
4198 wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under
4199 common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business
4200 for which any fulfillment warehouse license is issued.

4201 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under
4202 the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business
4203 located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or
4204 beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully
4205 sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the
4206 licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal
4207 licensees may also accept payment on behalf of the shipper.

4208 **§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.**

4209 The Board may grant the following licenses relating to wine:

4210 1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship
4211 the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so
4212 manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
4213 outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling
4214 equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which
4215 shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking
4216 facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded
4217 warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail on the
4218 premises described in the winery license for on-premises consumption or in closed containers for off-premises
4219 consumption, provided that such wine is manufactured on the licensed premises.

4220 2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the
4221 licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from
4222 one or more premises identified in the license, in accordance with Board regulations, in closed containers, to
4223 (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale
4224 outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners
4225 of boats registered under the laws of the United States sailing for ports of call of a foreign country or another
4226 state.

4227 No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who
4228 does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and
4229 purchases wine for resale pursuant to the privileges of such wine importer's license.

4230 3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to
4231 sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the
4232 Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the
4233 Commonwealth for resale outside the Commonwealth.

4234 4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee
4235 to sell wine at the place of business designated in the winery license, in closed containers, for off-premises
4236 consumption.

4237 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or
4238 less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed
4239 containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose
4240 of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive
4241 deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations,
4242 to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the
4243 Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with
4244 Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits
4245 issued by the Board. For the purposes of this ~~title~~ *subtitle*, a farm winery license shall be designated either as a
4246 Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery
4247 may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee
4248 operating a contract winemaking facility.

4249 Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in
4250 the licenses, which may include no more than five additional retail establishments of the licensee. Wine may
4251 be sold at these business places for on-premises consumption and in closed containers for off-premises
4252 consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises
4253 consumption at these business places.

4254 6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth
4255 to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in
4256 the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not
4257 be required to comply with the monthly food sale requirement established by Board regulations.

4258 **§ 4.1-207.1. (Repealed effective July 1, 2021) Restricted wholesale wine licenses.**

4259 The Board may grant a wholesale wine license to a nonprofit, nonstock corporation created in accordance
4260 with subdivision B 2 of § 3.2-102, which shall authorize the licensee to provide wholesale wine distribution
4261 services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a
4262 winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall
4263 provide such distribution services in accordance with the terms of a written agreement approved by the
4264 corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this
4265 ~~title~~ *subtitle* and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all
4266 laws and regulations governing wholesale wine licenses granted under subdivision 2 of § 4.1-207.

4267 **§ 4.1-208. (Repealed effective July 1, 2021) Beer licenses.**

4268 A. The Board may grant the following licenses relating to beer:

4269 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship
4270 the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to
4271 sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or
4272 amusement park owned and operated by the brewery or a parent, subsidiary or a company under common
4273 control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common
4274 control of such brewery contiguous to such premises, or in a development contiguous to such premises owned
4275 and operated by such brewery or a parent, subsidiary or a company under common control of such brewery;
4276 and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also
4277 authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the
4278 brewery license for on-premises consumption and in closed containers for off-premises consumption, provided
4279 that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is
4280 manufactured on the licensed premises.

4281 Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for
4282 and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such
4283 individuals of beer products, within a theme or amusement park located upon the premises occupied by such
4284 brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such
4285 premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's
4286 products to individuals visiting the licensed premises, provided that such samples shall be provided only to
4287 individuals for consumption on the premises of such facility or licensed premises and only to individuals to
4288 whom such products may be lawfully sold.

4289 2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar
4290 year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and
4291 owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains,
4292 hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises
4293 shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops,
4294 or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises
4295 of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However,
4296 the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also
4297 approve other portions of the farm to be included as part of the licensed premises. For purposes of this
4298 subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b)
4299 land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned
4300 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
4301 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

4302 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except as
4303 otherwise provided in this subdivision.

4304 3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of
4305 beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i)
4306 wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United
4307 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
4308 for resale outside the Commonwealth.

4309 4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
4310 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license,
4311 in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such
4312 beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United
4313 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
4314 for resale outside the Commonwealth.

4315 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who
4316 does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and
4317 purchases beer for resale pursuant to the privileges of such beer importer's license.

4318 5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to
4319 sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers,
4320 to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

4321 6. Retail on-premises beer licenses to:

4322 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals,
4323 only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and
4324 other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of
4325 this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the
4326 licensed premises, which may have more than one means of ingress and egress to an adjacent public
4327 thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the
4328 Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to
4329 subdivision A 5 of § 4.1-201.

4330 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to
4331 sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-
4332 premises consumption when carrying passengers.

4333 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell
4334 beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying
4335 passengers.

4336 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town,
4337 which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license
4338 shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment
4339 exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4340 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the
4341 licensee to sell beer, in paper, plastic, or similar disposable containers or in single original metal cans, during
4342 the performance of professional sporting exhibitions, events or performances immediately subsequent thereto,
4343 to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated
4344 by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization
4345 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
4346 premises in all areas and locations covered by the license.

4347 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility
4348 which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or
4349 Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any
4350 event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all
4351 seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon
4352 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages
4353 on the premises in all areas and locations covered by the license.

4354 g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
4355 facilities located in any county operating under the urban county executive form of government or any city
4356 which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event,
4357 in paper, plastic or similar disposable containers or in single original metal cans, to patrons or attendees within
4358 all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations
4359 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee,
4360 any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas
4361 and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and
4362 "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility
4363 having in excess of 100,000 square feet of floor space.

4364 h. A nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in
4365 the Town of Front Royal, and dedicated to educating the consuming public about historic beer products, which
4366 shall authorize the licensee to sell beer for on-premises consumption in areas approved by the Board. The
4367 privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

4368 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for
4369 off-premises consumption.

4370 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the
4371 licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall
4372 include growlers and other reusable containers, for off-premises consumption.

4373 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall
4374 accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the
4375 licensee to sell beer in closed containers for off-premises consumption.

4376 10. Internet beer retailer license, which shall authorize persons located within or outside the Commonwealth
4377 to sell and ship beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in
4378 the Commonwealth to whom beer may be lawfully sold for off-premises consumption. Such licensee shall not
4379 be required to comply with the monthly food sale requirement established by Board regulations.

4380 B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the
4381 Board in accordance with this ~~title~~ subtitle and (ii) is in compliance with the local zoning ordinance as an
4382 agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery
4383 use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this
4384 section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016,
4385 whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located
4386 on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and
4387 the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or
4388 limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new
4389 building or structure so long as specifically approved by the locality by special exception. All such licensees
4390 shall comply with the requirements of this ~~title~~ subtitle and Board regulations for renewal of such license or the
4391 issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or
4392 after July 1, 2016.

4393 **§ 4.1-212. (Effective until July 1, 2021) Permits required in certain instances.**

4394 A. The Board may grant the following permits which shall authorize:

4395 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer,
4396 or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

4397 2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic
4398 beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee
4399 in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

4400 3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to
4401 sell and which shall be used for culinary purposes only.

4402 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
4403 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
4404 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
4405 residence to the Commonwealth in accordance with § 4.1-310.

4406 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

4407 6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored
4408 in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside
4409 of the Commonwealth.

4410 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the
4411 Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

4412 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery
4413 in accordance with subsection C of § 4.1-132.

4414 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or
4415 qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased
4416 or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

4417 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be
4418 a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation
4419 sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal
4420 representative, receiver or other officer acting under authority of a court having jurisdiction in the
4421 Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform
4422 Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic
4423 beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth
4424 and upon such conditions or restrictions as the Board may prescribe.

4425 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or
4426 property of a person licensed by the Board and who has become lawfully entitled to the possession of the
4427 licensed premises to continue to operate the establishment to the same extent as a person holding such licenses
4428 for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be
4429 temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined
4430 by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

4431 12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-
4432 premises consumption.

4433 13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond
4434 in warehouses located in the Commonwealth.

4435 14. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses
4436 located in the Commonwealth.

4437 15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an
4438 application for a permit in which the applicant represents (i) that he or she is under contract to conduct such
4439 tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such
4440 contract grants to the applicant the authority to act as the authorized representative of such manufacturer or
4441 wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named
4442 in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit
4443 issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by
4444 the Board in accordance with § 4.1-229.

4445 16. Any person who, through contract, lease, concession, license, management or similar agreement
4446 (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a
4447 person licensed by the Board to continue to operate the establishment to the same extent as a person holding
4448 such licenses, provided such person has made application to the Board for a license at the same premises. The
4449 permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the
4450 Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by
4451 the Board pending the completion of the processing of the permittee's license application. No permit shall be
4452 issued without the written consent of the previous licensee. No permit shall be issued under the provisions of
4453 this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation
4454 of this ~~title~~ subtitle or any Board regulation, unless the permittee agrees to assume the liability of the previous
4455 licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to
4456 the effective date of the contract, in which case the permit when issued shall become effective on the effective
4457 date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance
4458 with the provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held
4459 liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or omissions
4460 of, the permittee.

4461 17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals
4462 for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct
4463 tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees
4464 to the licensee.

4465 18. Any tour company guiding individuals for compensation on a walking tour to one or more
4466 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee

4467 from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for
4468 any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to
4469 the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour
4470 company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than
4471 three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all
4472 participants are persons to whom alcoholic beverages may be lawfully sold.

4473 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof
4474 which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event
4475 of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

4476 **§ 4.1-212. (Effective July 1, 2021) Permits required in certain instances.**

4477 A. The Board may grant the following permits which shall authorize:

4478 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer,
4479 or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

4480 2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic
4481 beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee
4482 in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

4483 3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell
4484 and which shall be used for culinary purposes only.

4485 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
4486 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
4487 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
4488 residence to the Commonwealth in accordance with § 4.1-310.

4489 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

4490 6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored
4491 in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside
4492 of the Commonwealth.

4493 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the
4494 Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

4495 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery
4496 in accordance with subsection C of § 4.1-132.

4497 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or
4498 qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased
4499 or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

4500 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be
4501 a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation
4502 sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal
4503 representative, receiver or other officer acting under authority of a court having jurisdiction in the
4504 Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform
4505 Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic
4506 beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth
4507 and upon such conditions or restrictions as the Board may prescribe.

4508 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or
4509 property of a person licensed by the Board and who has become lawfully entitled to the possession of the
4510 licensed premises to continue to operate the establishment to the same extent as a person holding such licenses
4511 for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be
4512 temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined
4513 by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

4514 12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond
4515 in warehouses located in the Commonwealth.

4516 13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses
4517 located in the Commonwealth.

4518 14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an
4519 application for a permit in which the applicant represents (i) that he or she is under contract to conduct such
4520 tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such
4521 contract grants to the applicant the authority to act as the authorized representative of such manufacturer or
4522 wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named
4523 in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit
4524 issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by
4525 the Board in accordance with § 4.1-229.

4526 15. Any person who, through contract, lease, concession, license, management or similar agreement
4527 (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a
4528 person licensed by the Board to continue to operate the establishment to the same extent as a person holding
4529 such licenses, provided such person has made application to the Board for a license at the same premises. The
4530 permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the
4531 Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by
4532 the Board pending the completion of the processing of the permittee's license application. No permit shall be
4533 issued without the written consent of the previous licensee. No permit shall be issued under the provisions of
4534 this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation
4535 of this ~~title~~ *subtitle* or any Board regulation, unless the permittee agrees to assume the liability of the previous
4536 licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to
4537 the effective date of the contract, in which case the permit when issued shall become effective on the effective
4538 date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance
4539 with the provisions of this ~~title~~ *subtitle* and any Board regulation and (b) the previous licensee shall not be held
4540 liable for any violation of this ~~title~~ *subtitle* or any Board regulation committed by, or any errors or omissions
4541 of, the permittee.

4542 16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals
4543 for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct
4544 tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees
4545 to the licensee.

4546 17. Any tour company guiding individuals for compensation on a walking tour to one or more
4547 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee
4548 from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for
4549 any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to
4550 the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour
4551 company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than
4552 three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all
4553 participants are persons to whom alcoholic beverages may be lawfully sold.

4554 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof
4555 which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event
4556 of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

4557 **§ 4.1-213. Manufacture and sale of cider.**

4558 A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any
4559 wholesale wine licensee, and (iii) persons outside the Commonwealth.

4560 B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship
4561 the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail
4562 licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth
4563 for resale outside the Commonwealth.

4564 C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the
4565 same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other
4566 alcoholic beverages.

4567 D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply
4568 with federal regulations for wine or beer, provided such containers are labeled in accordance with Board
4569 regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that
4570 comply with federal regulations for wine, provided such containers are labeled in accordance with Board
4571 regulations.

4572 E. No additional license fees shall be charged for the privilege of handling cider.

4573 F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both,
4574 in the Commonwealth.

4575 G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of
4576 cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and
4577 to ensure that the markup required to be paid will be collected.

4578 H. For the purposes of this section:

4579 "Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or
4580 during fermentation.

4581 "Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar
4582 content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization
4583 or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. Cider shall be
4584 treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise provided in this ~~title~~ subtitle or Board
4585 regulations.

4586 I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person
4587 be denied the privilege of manufacturing and selling sweet cider.

4588 **§ 4.1-215. (Effective until July 1, 2021) Limitation on manufacturers, bottlers and wholesalers;
4589 exemptions.**

4590 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall
4591 be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the
4592 Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership
4593 or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or
4594 wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another
4595 subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v)
4596 manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which
4597 has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler
4598 or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such
4599 manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or
4600 otherwise.

4601 2. Notwithstanding any other provision of this ~~title~~ subtitle:

4602 a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain a banquet
4603 license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet
4604 license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and
4605 educating the consuming public about malt beverage products. Such manufacturer shall be limited to eight
4606 banquet licenses for such events per year without regard to the number of breweries owned or operated by such
4607 manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where
4608 the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for
4609 the event; or

4610 b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as
4611 provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is
4612 obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating
4613 the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for

4614 such events per year without regard to the number of wineries owned or operated by such manufacturer or by
4615 any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on
4616 no more than three consecutive days, a manufacturer need only obtain one such license for the event.

4617 3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether
4618 licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in
4619 subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (i) at a place approved
4620 by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the
4621 manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for
4622 such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer
4623 need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell
4624 or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas
4625 at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered,
4626 unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces
4627 of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this
4628 paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

4629 B. This section shall not apply to:

4630 1. Corporations operating dining cars, buffet cars, club cars or boats;

4631 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

4632 3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;

4633 4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish,
4634 directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet
4635 license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from
4636 sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers;

4637 5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1; or

4638 6. One out-of-state winery, not under common control or ownership with any other winery, that is under
4639 common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine
4640 produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is
4641 offered for sale to consumers.

4642 C. The General Assembly finds that it is necessary and proper to require a separation between
4643 manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic
4644 beverages in order to prevent suppliers from dominating local markets through vertical integration and to
4645 prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The
4646 exceptions established by this section to the general prohibition against tied interests shall be limited to their
4647 express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

4648 **§ 4.1-215. (Effective July 1, 2021) Limitation on manufacturers, bottlers, and wholesalers;**
4649 **exemptions.**

4650 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall
4651 be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the
4652 Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership
4653 or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or
4654 wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another
4655 subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v)
4656 manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which
4657 has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler,
4658 or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such
4659 manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or
4660 otherwise.

4661 2. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of wine or malt beverages, or
4662 two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a
4663 banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a

4664 banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of
4665 featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall
4666 be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to
4667 the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or
4668 company under common control with such manufacturer. Where the event occurs on no more than three
4669 consecutive days, a manufacturer need only obtain one such license for the event.

4670 3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether
4671 licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in
4672 subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place
4673 approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public
4674 about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet
4675 licenses for such special events per year. Where the event occurs on no more than three consecutive days, a
4676 manufacturer need only obtain one such license for the event. Such banquet license shall authorize the
4677 manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold
4678 in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per
4679 spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one
4680 and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per
4681 day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed
4682 beverage.

4683 B. This section shall not apply to:

4684 1. Corporations operating dining cars, buffet cars, club cars, or boats;

4685 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

4686 3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;

4687 4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish,
4688 directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet
4689 license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from
4690 sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;

4691 5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-206.3 or
4692 § 4.1-209.1 or 4.1-212.1; or

4693 6. One out-of-state winery, not under common control or ownership with any other winery, that is under
4694 common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine
4695 produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is
4696 offered for sale to consumers.

4697 C. The General Assembly finds that it is necessary and proper to require a separation between
4698 manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic
4699 beverages in order to prevent suppliers from dominating local markets through vertical integration and to
4700 prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The
4701 exceptions established by this section to the general prohibition against tied interests shall be limited to their
4702 express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

4703 **§ 4.1-216. (Effective until July 1, 2021) Further limitations on manufacturers, bottlers, importers,**
4704 **brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.**

4705 A. As used in this section:

4706 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly
4707 engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and
4708 arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic
4709 beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~
4710 *subtitle*.

4711 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or
4712 directors of any such manufacturer, bottler, importer, broker or wholesaler.

4713 B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of
4714 alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest,
4715 direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the
4716 business of a retail licensee is conducted.

4717 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler
4718 does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail
4719 licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment
4720 alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

4721 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock
4722 of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a
4723 financial interest, direct or indirect, in the business or the premises of the retail licensee.

4724 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing
4725 corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by
4726 providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

4727 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may
4728 provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision
4729 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed
4730 new owner to form a Virginia limited partnership in which the new owner is the general partner and the
4731 financing corporation is a limited partner. If the general partner defaults on any financial obligation to the
4732 limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner
4733 defaults on its obligation to pay principal and interest when due to the financing corporation as specifically
4734 defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to
4735 the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written
4736 notice has been given to the Board within two business days after taking title, the wholesale licensee may be
4737 managed and operated by such financing corporation pursuant to the existing wholesale license for a period of
4738 time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or
4739 before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale
4740 licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
4741 terminated. The financing corporation may not participate in financing the transfer of ownership to the new
4742 owner or to any other subsequent owner for a period of twenty years following the effective date of the original
4743 financing transaction; except where a transfer takes place before the expiration of the eighth full year following
4744 the effective date of the original financing transaction in which case the financing corporation may finance such
4745 transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed
4746 eight-year period. The financing corporation may exercise its right to take title to, manage and operate the
4747 business of, the wholesale licensee only once during such eight-year period.

4748 b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist
4749 in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an
4750 application for a wholesale license in the name of the proposed new owner to the Board.

4751 The Board shall be provided with all documents that pertain to the transaction at the time of the license
4752 application and shall ensure that the application complies with all requirements of law pertaining to the issuance
4753 of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby
4754 take a limited partnership interest in the applicant entity, the financing corporation shall not be required to
4755 comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition
4756 to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the
4757 following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any
4758 debt financing which the financing corporation proposes to provide are substantially the same as those available
4759 in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms
4760 of any proposed equity financing transaction are such that future profits of the applicant's business shall be
4761 distributed annually to the financing corporation in direct proportion to its percentage of ownership interest
4762 received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide

4763 equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest
4764 and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or
4765 equity capital to the financing corporation not later than the end of the eighth full year following the effective
4766 date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

4767 Once the Board has issued a wholesale license pursuant to an application filed in accordance with this
4768 subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject
4769 to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the
4770 licensee to resubmit certifications and documentation.

4771 c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity
4772 financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may
4773 do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following
4774 circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale
4775 licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory,
4776 other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the
4777 financing corporation may take title to any assets pledged to secure such debt but may not take title to the
4778 business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be
4779 supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing
4780 wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same
4781 as those available in the financial markets to other wholesale licensees in competition with the wholesale
4782 licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and
4783 provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

4784 Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to
4785 issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners
4786 thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4787 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees
4788 may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate
4789 or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of
4790 subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of
4791 operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of
4792 alcoholic beverages directly to retail licensees for a period not to exceed thirty days in the event that such retail
4793 licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to
4794 suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated
4795 by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary
4796 course of business.

4797 5. Notwithstanding any provision of this section, including but not limited to those provisions whereby
4798 certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or
4799 wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail
4800 licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises
4801 on which the retail licensee's business is conducted.

4802 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a
4803 historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the
4804 winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes
4805 and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for
4806 royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and
4807 trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been
4808 approved by the Board.

4809 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from
4810 income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the
4811 preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least
4812 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns

4813 not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the
4814 Board.

4815 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler,
4816 importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell,
4817 rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any
4818 retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of
4819 value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii)
4820 advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section
4821 or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its
4822 establishment alcoholic beverages of other manufacturers or wholesalers.

4823 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers
4824 selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic
4825 beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits
4826 owned by or ceded to the United States of America.

4827 **§ 4.1-216. (Effective July 1, 2021) Further limitations on manufacturers, bottlers, importers, brokers**
4828 **or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.**

4829 A. As used in this section:

4830 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly
4831 engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and
4832 arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic
4833 beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~
4834 *subtitle*.

4835 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or
4836 directors of any such manufacturer, bottler, importer, broker or wholesaler.

4837 B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of
4838 alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest,
4839 direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the
4840 business of a retail licensee is conducted.

4841 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler
4842 does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail
4843 licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment
4844 alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

4845 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock
4846 of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a
4847 financial interest, direct or indirect, in the business or the premises of the retail licensee.

4848 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing
4849 corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by
4850 providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

4851 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may
4852 provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision
4853 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed
4854 new owner to form a Virginia limited partnership in which the new owner is the general partner and the
4855 financing corporation is a limited partner. If the general partner defaults on any financial obligation to the
4856 limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner
4857 defaults on its obligation to pay principal and interest when due to the financing corporation as specifically
4858 defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to
4859 the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written
4860 notice has been given to the Board within two business days after taking title, the wholesale licensee may be
4861 managed and operated by such financing corporation pursuant to the existing wholesale license for a period of
4862 time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or

4863 before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale
4864 licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
4865 terminated. The financing corporation may not participate in financing the transfer of ownership to the new
4866 owner or to any other subsequent owner for a period of twenty years following the effective date of the original
4867 financing transaction; except where a transfer takes place before the expiration of the eighth full year following
4868 the effective date of the original financing transaction in which case the financing corporation may finance such
4869 transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed
4870 eight-year period. The financing corporation may exercise its right to take title to, manage and operate the
4871 business of, the wholesale licensee only once during such eight-year period.

4872 b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist
4873 in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an
4874 application for a wholesale license in the name of the proposed new owner to the Board.

4875 The Board shall be provided with all documents that pertain to the transaction at the time of the license
4876 application and shall ensure that the application complies with all requirements of law pertaining to the issuance
4877 of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby
4878 take a limited partnership interest in the applicant entity, the financing corporation shall not be required to
4879 comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition
4880 to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the
4881 following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any
4882 debt financing which the financing corporation proposes to provide are substantially the same as those available
4883 in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms
4884 of any proposed equity financing transaction are such that future profits of the applicant's business shall be
4885 distributed annually to the financing corporation in direct proportion to its percentage of ownership interest
4886 received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide
4887 equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest
4888 and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or
4889 equity capital to the financing corporation not later than the end of the eighth full year following the effective
4890 date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

4891 Once the Board has issued a wholesale license pursuant to an application filed in accordance with this
4892 subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject
4893 to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the
4894 licensee to resubmit certifications and documentation.

4895 c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity
4896 financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may
4897 do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following
4898 circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale
4899 licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory,
4900 other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the
4901 financing corporation may take title to any assets pledged to secure such debt but may not take title to the
4902 business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be
4903 supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing
4904 wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same
4905 as those available in the financial markets to other wholesale licensees in competition with the wholesale
4906 licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and
4907 provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

4908 Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to
4909 issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners
4910 thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4911 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees
4912 may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate

4913 or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of
4914 subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of
4915 operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of
4916 alcoholic beverages directly to retail licensees for a period not to exceed thirty days in the event that such retail
4917 licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to
4918 suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated
4919 by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary
4920 course of business.

4921 5. Notwithstanding any provision of this section, including but not limited to those provisions whereby
4922 certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or
4923 wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail
4924 licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises
4925 on which the retail licensee's business is conducted.

4926 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a
4927 historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the
4928 winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes
4929 and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for
4930 royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and
4931 trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been
4932 approved by the Board.

4933 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from
4934 income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the
4935 preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least
4936 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns
4937 not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the
4938 Board.

4939 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler,
4940 importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell,
4941 rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any
4942 retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of
4943 value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii)
4944 advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section
4945 or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its
4946 establishment alcoholic beverages of other manufacturers or wholesalers.

4947 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers
4948 selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic
4949 beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits
4950 owned by or ceded to the United States of America.

4951 The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

4952 **§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.**

4953 A. As used in this section:

4954 "Alcoholic beverage advertising material" or "advertising material" means any item, other than an
4955 illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used
4956 to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which
4957 otherwise complies with Board regulations.

4958 "Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a
4959 manufacturer has authorized to engage in a business consisting in whole or in part of the sale and distribution
4960 of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

4961 "Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a
4962 brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and
4963 beer licensees in Virginia or, in the case of spirits, to the Board.

4964 B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a
4965 manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a
4966 retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or
4967 plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

4968 C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a
4969 retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

4970 1. The wholesale value of the advertising material does not exceed \$250 per item, and

4971 2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale
4972 wine or beer licensee.

4973 A retail licensee shall retain for at least two years a record of its procurement of, including any payments
4974 for, such advertising materials along with an invoice or sales ticket containing a description of the item so
4975 purchased or otherwise procured.

4976 D. Except as otherwise provided in this ~~title~~ subtitle, a retail licensee shall not display in the interior of its
4977 licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully
4978 obtained and displayed in accordance with this section or Board regulation.

4979 E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board
4980 regulations in effect on January 1, 2007.

4981 **§ 4.1-222. Conditions under which Board may refuse to grant licenses.**

4982 The Board may refuse to grant any license if it has reasonable cause to believe that:

4983 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an
4984 association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the applicant
4985 is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the
4986 applicant is a limited liability company, any member-manager or any member owning 10 percent or more of
4987 the membership interest of the limited liability company:

4988 a. Is not 21 years of age or older;

4989 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the
4990 laws of any state, or of the United States;

4991 c. Has been convicted, within the five years immediately preceding the date of the application for such
4992 license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of
4993 alcoholic beverages;

4994 d. Is not a person of good moral character and repute;

4995 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership
4996 interests in the business which have not been disclosed;

4997 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed
4998 to be licensed;

4999 g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

5000 h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack
5001 of respect for law and order;

5002 i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;

5003 j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

5004 k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;

5005 l. Has misrepresented a material fact in applying to the Board for a license;

5006 m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or
5007 governmental agency or authority, by making or filing any report, document or tax return required by statute or
5008 regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or
5009 attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority,
5010 by making or maintaining business records required by statute or regulation which are false and fraudulent;

- 5011 n. Is violating or allowing the violation of any provision of this ~~title~~ *subtitle* in his establishment at the time
5012 his application for a license is pending;
- 5013 o. Is a police officer with police authority in the political subdivision within which the establishment
5014 designated in the application is located;
- 5015 p. Is physically unable to carry on the business for which the application for a license is filed or has been
5016 adjudicated incapacitated; or
- 5017 q. Is a member, agent or employee of the Board.
- 5018 2. The place to be occupied by the applicant:
- 5019 a. Does not conform to the requirements of the governing body of the county, city or town in which such
5020 place is located with respect to sanitation, health, construction or equipment, or to any similar requirements
5021 established by the laws of the Commonwealth or by Board regulation;
- 5022 b. Is so located that granting a license and operation thereunder by the applicant would result in violations
5023 of this ~~title~~ *subtitle*, Board regulations, or violation of the laws of the Commonwealth or local ordinances
5024 relating to peace and good order;
- 5025 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or an
5026 institution of higher education; public or private playground or other similar recreational facility; or any state,
5027 local, or federal government-operated facility, that the operation of such place under such license will adversely
5028 affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;
- 5029 d. Is so located with respect to any residence or residential area that the operation of such place under such
5030 license will adversely affect real property values or substantially interfere with the usual quietude and tranquility
5031 of such residence or residential area; or
- 5032 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement
5033 officers and special agents of the Board are prevented from ready access to and reasonable observation of any
5034 room or area within which alcoholic beverages are to be sold or consumed.
- 5035 3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the
5036 interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i)
5037 character of, population of, the number of similar licenses and the number of all licenses existent in the
5038 particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may
5039 have on such county, city, town or neighborhood in conforming with the purposes of this ~~title~~ *subtitle*; and (iii)
5040 objections, if any, which may have been filed by a local governing body or local residents.
- 5041 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any political
5042 subdivision thereof, which warrants refusal by the Board to grant any license.
- 5043 5. The Board is not authorized under this chapter to grant such license.
- 5044 **§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**
- 5045 A. The action of the Board in granting or in refusing to grant any license shall be subject to review in
5046 accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections B and
5047 C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner
5048 and the Board shall have the right to appeal to the Court of Appeals from any order of the court.
- 5049 B. The Board may refuse a hearing on any application for the granting of any retail alcoholic beverage or
5050 mixed beverage license, including a banquet license, provided such:
- 5051 1. License for the applicant has been refused or revoked within a period of twelve months;
- 5052 2. License for any premises has been refused or revoked at that location within a period of twelve months;
- 5053 3. Applicant, within a period of twelve months immediately preceding, has permitted a license granted by
5054 the Board to expire for nonpayment of license tax, and at the time of expiration of such license, there was a
5055 pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a
5056 violation of this ~~title~~ *subtitle*; or
- 5057 4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same location
5058 within twelve months of the date of the issuance of the restricted license.
- 5059 C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of
5060 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the

5061 Board may refuse a hearing on an application for a new license until after the date on which the suspension
5062 period would have been executed had the license not have been permitted to expire.

5063 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

5064 The Board may suspend or revoke any license other than a brewery license, in which case the Board may
5065 impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

5066 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an
5067 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee
5068 is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the
5069 licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the
5070 membership interest of the limited liability company:

5071 a. Has misrepresented a material fact in applying to the Board for such license;

5072 b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227,
5073 has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county,
5074 city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture,
5075 transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-
5076 300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act
5077 (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of
5078 the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by
5079 the Board;

5080 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under
5081 the laws of any state, or of the United States;

5082 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other
5083 persons have ownership interests in the business which have not been disclosed;

5084 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted
5085 under the license granted by the Board;

5086 f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed
5087 premises;

5088 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a
5089 meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill
5090 repute, or has allowed any form of illegal gambling to take place upon such premises;

5091 h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other
5092 than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any
5093 crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other
5094 state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic
5095 beverages;

5096 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect
5097 for law and order;

5098 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he
5099 knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has
5100 allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed
5101 premises;

5102 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as
5103 provided under this ~~title~~ subtitle;

5104 l. Is physically unable to carry on the business conducted under such license or has been adjudicated
5105 incapacitated;

5106 m. Has allowed any obscene literature, pictures or materials upon the licensed premises;

5107 n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

5108 o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed
5109 any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled
5110 substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are

5111 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
5112 Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit
5113 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
5114 provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business
5115 that facilitates the commission of any of the offenses set forth herein;

5116 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately
5117 adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property
5118 immediately adjacent to the licensed premises from becoming a place where patrons of the establishment
5119 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
5120 (§ 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
5121 (§ 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
5122 (§ 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 (§
5123 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
5124 frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

5125 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily
5126 injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately
5127 adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property
5128 immediately adjacent to the licensed premises.

5129 2. The place occupied by the licensee:

5130 a. Does not conform to the requirements of the governing body of the county, city or town in which such
5131 establishment is located, with respect to sanitation, health, construction or equipment, or to any similar
5132 requirements established by the laws of the Commonwealth or by Board regulations;

5133 b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-258; or

5134 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
5135 prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly
5136 used or distributed. The Board may consider the general reputation in the community of such establishment in
5137 addition to any other competent evidence in making such determination.

5138 3. The licensee or any employee of the licensee discriminated against any member of the armed forces of
5139 the United States by prices charged or otherwise.

5140 4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted
5141 of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee
5142 allowed such conduct to occur.

5143 5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the
5144 facts been known.

5145 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties
5146 or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified
5147 by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding
5148 amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect
5149 to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same
5150 locality to settle the outstanding liability.

5151 7. Any other cause authorized by this ~~title~~ subtitle.

5152 **§ 4.1-227. (Effective until July 1, 2021) Suspension or revocation of licenses; notice and hearings;**
5153 **imposition of penalties.**

5154 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee
5155 or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to
5156 the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et
5157 seq.).

5158 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit
5159 the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or
5160 copies thereof or the substance of any oral statements made by the licensee or a previous or present employee

5161 of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which
5162 the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and
5163 (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof,
5164 that are within the possession, custody, or control of the Board and upon which the Board intends to rely as
5165 evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for
5166 the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-
5167 103 shall provide for the production of the documents sought within ten working days, notwithstanding anything
5168 to the contrary in § 4.1-103.

5169 If the Board fails to provide for inspection or copying under this section for the licensee after a written
5170 request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully
5171 been entitled to inspect or copy under this section.

5172 The action of the Board in suspending or revoking any license or in imposing a civil penalty against the
5173 holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process
5174 Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in
5175 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of
5176 the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,
5177 stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor
5178 injunction shall lie in any such case.

5179 B. In suspending any license the Board may impose, as a condition precedent to the removal of such
5180 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
5181 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and
5182 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding
5183 \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or
5184 \$5,000 for the second violation occurring within five years immediately preceding the date of the second
5185 violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing
5186 alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted
5187 persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five
5188 years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five
5189 years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof,
5190 or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement
5191 that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and
5192 in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

5193 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his
5194 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent
5195 agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the
5196 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an
5197 appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed
5198 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within
5199 the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the
5200 suspension as applicable, or (4) proceed to a hearing.

5201 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay
5202 the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges
5203 of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the
5204 second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any
5205 suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation
5206 shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats
5207 registered under the laws of the United States sailing for ports of call of a foreign country or another state, and
5208 to persons outside the Commonwealth.

5209 E. The Board shall, by regulation or written order:

5210 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial
5211 hearing;

5212 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
5213 suspension may be accepted for a first offense occurring within three years immediately preceding the date of
5214 the violation;

5215 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty
5216 for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or
5217 seller training certified in advance by the Board;

5218 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license
5219 and the civil charge acceptable in lieu of such suspension; and

5220 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee
5221 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall
5222 be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ *subtitle* or Board
5223 regulations.

5224 **§ 4.1-227. (Effective July 1, 2021) Suspension or revocation of licenses; notice and hearings;
5225 imposition of penalties.**

5226 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee
5227 or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to
5228 the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et
5229 seq.).

5230 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit
5231 the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or
5232 copies thereof or the substance of any oral statements made by the licensee or a previous or present employee
5233 of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which
5234 the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and
5235 (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof,
5236 that are within the possession, custody, or control of the Board and upon which the Board intends to rely as
5237 evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for
5238 the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-
5239 103 shall provide for the production of the documents sought within ten working days, notwithstanding anything
5240 to the contrary in § 4.1-103.

5241 If the Board fails to provide for inspection or copying under this section for the licensee after a written
5242 request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully
5243 been entitled to inspect or copy under this section.

5244 The action of the Board in suspending or revoking any license or in imposing a civil penalty against the
5245 holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process
5246 Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in
5247 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of
5248 the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,
5249 stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor
5250 injunction shall lie in any such case.

5251 B. In suspending any license the Board may impose, as a condition precedent to the removal of such
5252 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
5253 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and
5254 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding
5255 \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or
5256 \$5,000 for the second violation occurring within five years immediately preceding the date of the second
5257 violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing
5258 alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted
5259 persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five

5260 years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five
 5261 years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof,
 5262 or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not
 5263 exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in
 5264 addition to any suspension or civil penalty incurred.

5265 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his
 5266 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent
 5267 agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or applicant of the
 5268 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an
 5269 appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed
 5270 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within
 5271 the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the
 5272 suspension as applicable, or (4) proceed to a hearing.

5273 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay
 5274 the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges
 5275 of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the
 5276 second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any
 5277 suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation
 5278 shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats
 5279 registered under the laws of the United States sailing for ports of call of a foreign country or another state, and
 5280 to persons outside the Commonwealth.

5281 E. The Board shall, by regulation or written order:

5282 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial
 5283 hearing;

5284 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
 5285 suspension may be accepted for a first offense occurring within three years immediately preceding the date of
 5286 the violation;

5287 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty
 5288 for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or
 5289 seller training certified in advance by the Board;

5290 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license
 5291 and the civil charge acceptable in lieu of such suspension; and

5292 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee
 5293 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall
 5294 be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ *sub*title or Board
 5295 regulations.

5296 **§ 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees;**
 5297 **permits.**

5298 A. Every person intending to apply for any license authorized by this chapter shall file with the Board an
 5299 application on forms provided by the Board and a statement in writing by the applicant swearing and affirming
 5300 that all of the information contained therein is true.

5301 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food
 5302 establishment permit from the Department of Health or an inspection by the Department of Agriculture and
 5303 Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for
 5304 such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit,
 5305 proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection,
 5306 a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection,
 5307 such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of
 5308 this ~~title~~ *sub*title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an
 5309 inspection is completed.

5310 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual
5311 banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's,
5312 wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
5313 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the
5314 Board on the front door of the building, place or room where he proposes to engage in such business for no
5315 more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as
5316 required by the Board, including a statement that any objections shall be submitted to the Board not more than
5317 30 days following initial publication of the notice required pursuant to this subsection.

5318 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a
5319 newspaper published in or having a general circulation in the county, city or town wherein such applicant
5320 proposes to engage in such business. Such notice shall contain such information as required by the Board,
5321 including a statement that any objections to the issuance of the license be submitted to the Board not later than
5322 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine
5323 and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and
5324 airplanes, the posting and publishing of notice shall not be required.

5325 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events,
5326 annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual
5327 arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal
5328 history records search, which may include a fingerprint-based national criminal history records search, on each
5329 applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal
5330 history records search and completed personal data form for officers, directors, nonmanaging members, or
5331 limited partners of any applicant corporation, limited liability company, or limited partnership.

5332 Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery
5333 permits, the Board shall notify the local governing body of each license application through the county or city
5334 attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to
5335 the granting of a license within 30 days of the filing of the application.

5336 C. Each applicant shall pay the required application fee at the time the application is filed. Each license
5337 application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual
5338 cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal
5339 Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
5340 Criminal Records Exchange for each criminal history records search required by the Board, except for banquet,
5341 tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application
5342 fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be
5343 in addition to the state license fee required pursuant to § 4.1-231 and shall not be refunded.

5344 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all
5345 licensees shall file and maintain with the Board a current, accurate record of the information required by the
5346 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with
5347 Board regulations.

5348 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board.
5349 In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied
5350 by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to proration to the
5351 following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-
5352 fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the
5353 fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30
5354 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall
5355 confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by
5356 law.

5357 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
5358 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the
5359 number of months for which the permit is granted.

5360 The fee for a keg registration permit shall be \$65 annually.

5361 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or
5362 internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

5363 **§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees;**
5364 **permits.**

5365 A. Every person intending to apply for any license authorized by this chapter shall file with the Board an
5366 application on forms provided by the Board and a statement in writing by the applicant swearing and affirming
5367 that all of the information contained therein is true.

5368 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food
5369 establishment permit from the Department of Health or an inspection by the Department of Agriculture and
5370 Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for
5371 such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit,
5372 proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection,
5373 a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection,
5374 such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of
5375 this ~~title~~ *sub*title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an
5376 inspection is completed.

5377 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual
5378 banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's,
5379 delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et
5380 seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door
5381 of the building, place or room where he proposes to engage in such business for no more than 30 days and not
5382 less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including
5383 a statement that any objections shall be submitted to the Board not more than 30 days following initial
5384 publication of the notice required pursuant to this subsection.

5385 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a
5386 newspaper published in or having a general circulation in the county, city, or town wherein such applicant
5387 proposes to engage in such business. Such notice shall contain such information as required by the Board,
5388 including a statement that any objections to the issuance of the license be submitted to the Board not later than
5389 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licenses,
5390 delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting
5391 and publishing of notice shall not be required.

5392 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events,
5393 annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum
5394 licenses, the Board shall conduct a background investigation, to include a criminal history records search, which
5395 may include a fingerprint-based national criminal history records search, on each applicant for a license.
5396 However, the Board may waive, for good cause shown, the requirement for a criminal history records search
5397 and completed personal data form for officers, directors, nonmanaging members, or limited partners of any
5398 applicant corporation, limited liability company, or limited partnership.

5399 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the
5400 local governing body of each license application through the county or city attorney or the chief law-
5401 enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license
5402 within 30 days of the filing of the application.

5403 C. Each applicant shall pay the required application fee at the time the application is filed. Each license
5404 application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual
5405 cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal
5406 Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
5407 Criminal Records Exchange for each criminal history records search required by the Board, except for banquet,
5408 tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application

5409 fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be
 5410 in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

5411 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all
 5412 licensees shall file and maintain with the Board a current, accurate record of the information required by the
 5413 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with
 5414 Board regulations.

5415 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board.
 5416 Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as
 5417 otherwise provided by law.

5418 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
 5419 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the
 5420 number of months for which the permit is granted.

5421 F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1
 5422 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer
 5423 price index and shall not increase fees more than once every three years. Prior to implementing any state license
 5424 fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to
 5425 impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed
 5426 fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has
 5427 decided to increase state license fees, and such increases shall become effective July 1 of the following year.

5428 **§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.**

5429 A. The annual fees on state licenses shall be as follows:

5430 1. Alcoholic beverage licenses. For each:

5431 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the
 5432 year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons
 5433 manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

5434 b. Fruit distiller's license, \$3,725;

5435 c. Banquet facility license or museum license, \$190;

5436 d. Bed and breakfast establishment license, \$35;

5437 e. Tasting license, \$40 per license granted;

5438 f. Equine sporting event license, \$130;

5439 g. Motor car sporting event facility license, \$130;

5440 h. Day spa license, \$100;

5441 i. Delivery permit, \$120 if the permittee holds no other license under this ~~title~~ *subtitle*;

5442 j. Meal-assembly kitchen license, \$100;

5443 k. Canal boat operator license, \$100;

5444 l. Annual arts venue event license, \$100;

5445 m. Art instruction studio license, \$100;

5446 n. Commercial lifestyle center license, \$300;

5447 o. Confectionery license, \$100;

5448 p. Local special events license, \$300;

5449 q. Coworking establishment license, \$500; and

5450 r. Bespoke clothier establishment license, \$100.

5451 2. Wine licenses. For each:

5452 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license
 5453 is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

5454 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year,
 5455 \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine
 5456 per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
 5457 per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

- 5458 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
5459 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number
5460 of separate locations covered by the license;
- 5461 c. Wine importer's license, \$370;
- 5462 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 5463 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which
5464 shall include a delivery permit;
- 5465 f. Wine shipper's license, \$230; and
- 5466 g. Internet wine retailer license, \$150.
- 5467 3. Beer licenses. For each:
- 5468 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license
5469 is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is
5470 granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 5471 b. Bottler's license, \$1,430;
- 5472 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and
5473 \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and
5474 \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 5475 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the
5476 amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
- 5477 d. Beer importer's license, \$370;
- 5478 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of
5479 passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat,
5480 \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in
5481 the Commonwealth;
- 5482 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 5483 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or
5484 in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
- 5485 h. Beer shipper's license, \$230;
- 5486 i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
- 5487 j. Internet beer retailer license, \$150.
- 5488 4. Wine and beer licenses. For each:
- 5489 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common
5490 carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers
5491 by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars
5492 operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by
5493 airplane, \$750;
- 5494 b. Retail on-premises wine and beer license to a hospital, \$145;
- 5495 c. Retail on-premises wine and beer license to a historic cinema house, \$200;
- 5496 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
5497 grocery store license, \$230, which shall include a delivery permit;
- 5498 e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include
5499 a delivery permit;
- 5500 f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board
5501 pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 5502 g. Gourmet brewing shop license, \$230;
- 5503 h. Wine and beer shipper's license, \$230;
- 5504 i. Annual banquet license, \$150;
- 5505 j. Fulfillment warehouse license, \$120;
- 5506 k. Marketing portal license, \$150; and
- 5507 l. Gourmet oyster house license, \$230.

- 5508 5. Mixed beverage licenses. For each:
- 5509 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located
- 5510 on premises of and operated by hotels or motels, or other persons:
- 5511 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 5512 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 5513 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 5514 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private,
- 5515 nonprofit clubs:
- 5516 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 5517 (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860;
- 5518 and
- 5519 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 5520 c. Mixed beverage caterer's license, \$1,860;
- 5521 d. Mixed beverage limited caterer's license, \$500;
- 5522 e. Mixed beverage special events license, \$45 for each day of each event;
- 5523 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 5524 g. Annual mixed beverage special events license, \$560;
- 5525 h. Mixed beverage carrier license:
- 5526 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
- 5527 Commonwealth by a common carrier of passengers by train;
- 5528 (ii) \$560 for each common carrier of passengers by boat;
- 5529 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 5530 i. Annual mixed beverage amphitheater license, \$560;
- 5531 j. Annual mixed beverage motor sports race track license, \$560;
- 5532 k. Annual mixed beverage banquet license, \$500;
- 5533 l. Limited mixed beverage restaurant license:
- 5534 (i) With a seating capacity at tables for up to 100 persons, \$460;
- 5535 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
- 5536 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
- 5537 m. Annual mixed beverage motor sports facility license, \$560; and
- 5538 n. Annual mixed beverage performing arts facility license, \$560.
- 5539 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by
- 5540 this section on the license for which the applicant applied.
- 5541 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject
- 5542 to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be
- 5543 decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and
- 5544 if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.
- 5545 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons
- 5546 of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture
- 5547 not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons
- 5548 permitted to be manufactured shall be prorated in the same manner.
- 5549 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of
- 5550 alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license,
- 5551 such person shall pay for such unlimited license a license tax equal to the amount that would have been charged
- 5552 had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol
- 5553 or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount
- 5554 of license tax previously paid on the limited license.
- 5555 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24,
- 5556 or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent,

5557 multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not
5558 be refundable, except as provided in § 4.1-232.

5559 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant
5560 license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to
5561 state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the
5562 alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license
5563 taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first
5564 \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor
5565 to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine
5566 distributor, the first \$163,800 of wine purchases shall be disregarded.

5567 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in
5568 person from the Board if such license is available for purchase online.

5569 **§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and**
5570 **automated clearinghouse information.**

5571 A. The Board may accept payment by any commercially acceptable means, including checks, credit cards,
5572 debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a licensee in
5573 accordance with this ~~title~~ *subtitle*. In addition, the Board may assess a service charge for the use of a credit or
5574 debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the
5575 Department.

5576 B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record of the
5577 applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such
5578 information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the
5579 Board. The Board may assess a service charge as provided in subsection A for any payments made under this
5580 subsection. The Board may procure the services of a third-party vendor for the secure storage of information
5581 collected pursuant to this subsection.

5582 **§ 4.1-300. Illegal manufacture and bottling; penalty.**

5583 A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic
5584 beverages in the Commonwealth without being licensed under this ~~title~~ *subtitle* to manufacture such alcoholic
5585 beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer for sale.

5586 B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning of
5587 this section.

5588 C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

5589 **§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.**

5590 If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~ *subtitle*, he
5591 shall be guilty of a Class 1 misdemeanor.

5592 In the event of a second or subsequent conviction under this section, a jail sentence of no less than thirty
5593 days shall be imposed and in no case be suspended.

5594 **§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

5595 If any person buys alcoholic beverages from any person other than the Board, a government store or a
5596 person authorized under this ~~title~~ *subtitle* to sell alcoholic beverages, he shall be guilty of a Class 1
5597 misdemeanor.

5598 **§ 4.1-310. (Effective until July 1, 2021) Illegal importation, shipment and transportation of alcoholic**
5599 **beverages; penalty; exception.**

5600 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported or brought into
5601 the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board.
5602 However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i)
5603 persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or
5604 (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the
5605 Board shall charge only a reasonable permit fee.

5606 B. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported
5607 or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

5608 C. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported
5609 or brought into the Commonwealth except to persons licensed to sell it.

5610 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5611 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession,
5612 or through United States Customs in his accompanying baggage, into the Commonwealth not for resale,
5613 alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages
5614 being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth
5615 of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person
5616 relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages
5617 on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers
5618 engaged in interstate or foreign commerce.

5619 **§ 4.1-310. (Effective July 1, 2021) Illegal importation, shipment and transportation of alcoholic**
5620 **beverages; penalty; exception.**

5621 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or brought into
5622 the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board.
5623 However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i)
5624 persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or
5625 (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the
5626 Board shall charge only a reasonable permit fee.

5627 B. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no wine shall
5628 be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine
5629 licensee.

5630 C. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no beer shall
5631 be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

5632 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5633 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession,
5634 or through United States Customs in his accompanying baggage, into the Commonwealth not for resale,
5635 alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages
5636 being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth
5637 of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person
5638 relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages
5639 on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers
5640 engaged in interstate or foreign commerce.

5641 **§ 4.1-310.1. (Effective until July 1, 2021) Delivery of wine or beer to retail licensee.**

5642 Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be shipped
5643 or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed
5644 premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not
5645 less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder
5646 of a restricted wholesale wine license issued pursuant to § 4.1-207.1 shall be exempt from the requirement set
5647 forth in clause (ii).

5648 **§ 4.1-310.1. (Effective July 1, 2021) Delivery of wine or beer to retail licensee.**

5649 Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be shipped
5650 or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed
5651 premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not
5652 less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder
5653 of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-206.2 shall be exempt from the
5654 requirement set forth in clause (ii).

5655 **§ 4.1-320. Illegal advertising; penalty; exception.**

5656 A. Except in accordance with this ~~title subtitle~~ and Board regulations, no person shall advertise in or send
5657 any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which
5658 may legally be manufactured or sold without a license.

5659 B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage
5660 advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board
5661 regulations.

5662 C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of
5663 a Class 1 misdemeanor.

5664 D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the
5665 Board shall give the advertiser written notice to take corrective action to either bring the advertisement into
5666 compliance with this ~~title subtitle~~ and Board regulations or to remove such advertisement. If corrective action
5667 is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

5668 E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale
5669 value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the
5670 exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other
5671 competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery,
5672 winery or brewery and the display on the automobile, boat or aircraft and uniforms of the members of the racing
5673 team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery;
5674 (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by
5675 a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in
5676 connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any
5677 airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any
5678 alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any
5679 motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia,
5680 coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events;
5681 or (vii) the sponsorship of an entertainment or cultural event.

5682 **§ 4.1-323. Attempts; aiding or abetting; penalty.**

5683 No person shall attempt to do any of the things prohibited by this ~~title subtitle~~ or to aid or abet another in
5684 doing, or attempting to do, any of the things prohibited by this ~~title subtitle~~.

5685 On an indictment, information or warrant for the violation of this ~~title subtitle~~, the jury or the court may
5686 find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the
5687 defendant were solely guilty of such violation.

5688 **§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.**

5689 A. No licensee or any agent or employee of such licensee shall:

5690 1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title subtitle~~ authorizes
5691 him to sell;

5692 2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may
5693 combine wine or spirits, or both, with beer pursuant to a patron's order;

5694 3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the
5695 manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that
5696 contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant
5697 to a patron's order;

5698 4. Sell alcoholic beverages of a kind which such license or this ~~title subtitle~~ authorizes him to sell, but to
5699 any person other than to those to whom such license or this ~~title subtitle~~ authorizes him to sell;

5700 5. Sell alcoholic beverages which such license or this ~~title subtitle~~ authorizes him to sell, but in any place
5701 or in any manner other than such license or this ~~title subtitle~~ authorizes him to sell;

5702 6. Sell any alcoholic beverages when forbidden by this ~~title subtitle~~;

5703 7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages
5704 other than that which he is authorized to sell by such license or by this ~~title subtitle~~;

- 5705 8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer
5706 license;
- 5707 9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of
5708 any beer sold;
- 5709 10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller
5710 holds a wholesale wine or farm winery license;
- 5711 11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol
5712 vaporizing device;
- 5713 12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him
5714 except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the
5715 Board pending automatic dispensing and sale of such wine; or
- 5716 13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device
5717 to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of
5718 an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price
5719 charged for the same alcoholic beverage.
- 5720 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.
- 5721 C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee from using
5722 alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of
5723 preparing and selling for on-premises consumption food products with a final alcohol content of more than one-
5724 half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21
5725 years of age or older.
- 5726 **§ 4.1-325. (Effective until July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.**
- 5727 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:
- 5728 1. Sell or serve any alcoholic beverage other than as authorized by law;
- 5729 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
- 5730 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this
5731 ~~title~~ subtitle;
- 5732 4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to
5733 sell;
- 5734 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
- 5735 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except
5736 (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type
5737 approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic
5738 dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision
5739 nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to
5740 which spirits may be added, to be served and sold for consumption on the licensed premises;
- 5741 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the
5742 contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted
5743 pursuant to subdivision B 11 of § 4.1-111;
- 5744 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser
5745 without first advising such purchaser of the difference;
- 5746 9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered
5747 for sale;
- 5748 10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;
- 5749 11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed
5750 premises;
- 5751 12. Allow any striptease act on the licensed premises;
- 5752 13. Allow persons connected with the licensed business to appear nude or partially nude;
- 5753 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a
5754 position that is involved in the selling or serving of alcoholic beverages to customers.

5755 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i)
 5756 consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed
 5757 beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who
 5758 represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee
 5759 or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an
 5760 alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

5761 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether
 5762 the closure is broken or unbroken except in accordance with § 4.1-210.

5763 The provisions of this subdivision shall not apply to the delivery of:

5764 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage
 5765 distilled from rice, barley or sweet potatoes; or

5766 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no
 5767 greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

5768 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

5769 17. Conceal any sale or consumption of any alcoholic beverages;

5770 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or
 5771 obstruct special agents of the Board in the discharge of their duties;

5772 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such
 5773 alcoholic beverages from the premises;

5774 20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute,
 5775 panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess
 5776 or engages in illegal gambling;

5777 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine
 5778 or apparatus;

5779 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of
 5780 normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in
 5781 this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference,
 5782 convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in
 5783 the course of usual and customary business entertainment and is in no way a shift or device to evade the
 5784 restriction set forth in this subdivision; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision
 5785 A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be
 5786 subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep
 5787 complete and accurate records of gifts given in accordance with this subdivision; or

5788 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device
 5789 to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of
 5790 an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price
 5791 charged for the same alcoholic beverage.

5792 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5793 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls,
 5794 art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances,
 5795 when the performances that are presented are expressing matters of serious literary, artistic, scientific, or
 5796 political value.

5797 **§ 4.1-325. (Effective July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.**

5798 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

5799 1. Sell or serve any alcoholic beverage other than as authorized by law;

5800 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

5801 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this
 5802 ~~title~~ subtitle;

5803 4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to
 5804 sell;

- 5805 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
- 5806 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except
- 5807 (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type
- 5808 approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic
- 5809 dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision
- 5810 nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to
- 5811 which spirits may be added, to be served and sold for consumption on the licensed premises;
- 5812 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the
- 5813 contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted
- 5814 pursuant to subdivision B 11 of § 4.1-111;
- 5815 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser
- 5816 without first advising such purchaser of the difference;
- 5817 9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered
- 5818 for sale;
- 5819 10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;
- 5820 11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed
- 5821 premises;
- 5822 12. Allow any striptease act on the licensed premises;
- 5823 13. Allow persons connected with the licensed business to appear nude or partially nude;
- 5824 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a
- 5825 position that is involved in the selling or serving of alcoholic beverages to customers.
- 5826 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i)
- 5827 consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed
- 5828 beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who
- 5829 represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee
- 5830 or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an
- 5831 alcoholic beverage that has been or will be delivered to a customer for quality control purposes;
- 5832 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether
- 5833 the closure is broken or unbroken except in accordance with § 4.1-206.3.
- 5834 The provisions of this subdivision shall not apply to the delivery of:
- 5835 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage
- 5836 distilled from rice, barley or sweet potatoes; or
- 5837 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no
- 5838 greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;
- 5839 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
- 5840 17. Conceal any sale or consumption of any alcoholic beverages;
- 5841 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or
- 5842 obstruct special agents of the Board in the discharge of their duties;
- 5843 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such
- 5844 alcoholic beverages from the premises;
- 5845 20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute,
- 5846 panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess
- 5847 or engages in illegal gambling;
- 5848 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine
- 5849 or apparatus;
- 5850 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of
- 5851 normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in
- 5852 this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference,
- 5853 convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in
- 5854 the course of usual and customary business entertainment and is in no way a shift or device to evade the

5855 restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision
5856 A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be
5857 subject to the taxes imposed by this ~~title~~ *subtitle* on sales of alcoholic beverages. The licensee shall keep
5858 complete and accurate records of gifts given in accordance with this subdivision; or

5859 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device
5860 to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of
5861 an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price
5862 charged for the same alcoholic beverage.

5863 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5864 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls,
5865 art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances,
5866 when the performances that are presented are expressing matters of serious literary, artistic, scientific, or
5867 political value.

5868 **§ 4.1-325.2. (Effective until July 1, 2021) Prohibited acts by employees of wine or beer licensees;**
5869 **penalty.**

5870 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall
5871 consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of
5872 alcoholic beverages to customers.

5873 The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i)
5874 consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer
5875 or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the
5876 retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii)
5877 tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

5878 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees
5879 that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be
5880 agents of the retail wine or beer licensee.

5881 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage,
5882 other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is
5883 in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for
5884 the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on
5885 the premises of the licensee, when such gift is made in the course of usual and customary business entertainment
5886 and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection
5887 D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any
5888 gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ *subtitle* on sales of alcoholic
5889 beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this
5890 subsection.

5891 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to
5892 exceed \$500.

5893 **§ 4.1-325.2. (Effective July 1, 2021) Prohibited acts by employees of wine or beer licensees; penalty.**

5894 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall
5895 consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of
5896 alcoholic beverages to customers.

5897 The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i)
5898 consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer
5899 or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the
5900 retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii)
5901 tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

5902 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees
5903 that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be
5904 agents of the retail wine or beer licensee.

5905 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage,
5906 other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is
5907 in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for
5908 the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on
5909 the premises of the licensee, when such gift is made in the course of usual and customary business entertainment
5910 and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection
5911 B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any
5912 gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ *subtitle* on sales of alcoholic
5913 beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this
5914 subsection.

5915 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to
5916 exceed \$500.

5917 **§ 4.1-329. Illegal advertising materials; penalty.**

5918 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any
5919 manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving
5920 to any person any advertising materials or decorations under circumstances prohibited by this ~~title~~ *subtitle* or
5921 Board regulations.

5922 Any person found by the Board to have violated this section shall be subject to a civil penalty as provided
5923 in § 4.1-227.

5924 **§ 4.1-336. Contraband beverages and other articles subject to forfeiture.**

5925 All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic
5926 beverages and materials used in their manufacture, all containers in which alcoholic beverages may be found,
5927 which are kept, stored, possessed, or in any manner used in violation of the provisions of this ~~title~~ *subtitle*, and
5928 any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person
5929 or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or
5930 sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of
5931 burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate
5932 vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or
5933 vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to
5934 the Commonwealth.

5935 Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such
5936 property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et
5937 seq.) of Title 19.2.

5938 **§ 4.1-337. Search warrants.**

5939 A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored, or in
5940 any manner held, used or concealed in a particular house, or other place, in violation of law, the judge,
5941 magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if
5942 satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place
5943 for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and
5944 executed in accordance with the laws of the Commonwealth pertaining to search warrants.

5945 B. Warrants issued under this ~~title~~ *subtitle* for the search of any automobile, boat, conveyance or vehicle,
5946 whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for alcoholic
5947 beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made
5948 returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or
5949 article of baggage, or any of them, was transported or attempted to be transported contrary to law.

5950 **§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.**

5951 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited
5952 to the Commonwealth under this chapter shall be as provided in this section.

5953 B. Production of seized property. -- Whenever any article declared contraband under the provisions of this
5954 ~~title~~ *subtitle* and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by

5955 any officer charged with the enforcement of this ~~title~~ *subtitle*, he shall produce the contraband article and any
5956 person in whose possession it was found. In those cases where no person is found in possession of such articles
5957 the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where
5958 the articles were found, or if there is no door, then in any conspicuous place upon the premises.

5959 In case of seizure of a still, doubler, worm, worm tub, mash tub, mash tub, fermenting tub, or other distilling apparatus,
5960 for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place
5961 of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary
5962 to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of
5963 at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and
5964 destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons
5965 for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials
5966 remaining after such destruction. The report shall include a statement that, from facts within their own
5967 knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for
5968 use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such
5969 apparatus to a place of safe storage.

5970 In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws
5971 of the United States has not been paid, for any offense involving forfeiture of the same, the seizing officer may
5972 destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation of spirits or
5973 any other violation of this ~~title~~ *subtitle*. The destruction shall be in the presence of at least one credible witness,
5974 and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board.
5975 The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a
5976 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever
5977 that the mash was intended for use in the unlawful distillation of spirits, or that the alcoholic beverages were
5978 intended for use in violation of this ~~title~~ *subtitle*.

5979 C. Hearing and determination. -- Upon the return of the warrant as provided in this section, the court shall
5980 fix a time not less than ten days, unless waived by the accused in writing, and not more than thirty days
5981 thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof,
5982 were used or in any manner kept, stored or possessed in violation of this ~~title~~ *subtitle*.

5983 At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the
5984 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them
5985 over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and
5986 file a written claim setting forth particularly the character and extent of his interest. The court shall certify the
5987 warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity
5988 of such claim.

5989 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be
5990 turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a
5991 bar to any prosecution under any other provision of this ~~title~~ *subtitle*.

5992 D. Disposition of forfeited beverages and other articles. -- Any articles forfeited to the Commonwealth and
5993 turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems
5994 proper. The net proceeds from such sales shall be paid into the Literary Fund. If the Board believes that any
5995 alcoholic beverages forfeited to the Commonwealth and turned over to the Board in accordance with this section
5996 cannot be sold and should not be destroyed, it may give such alcoholic beverages for medicinal purposes to any
5997 institution in the Commonwealth regularly conducted as a hospital, nursing home or sanatorium for the care of
5998 persons in ill health, or as a home devoted exclusively to the care of aged people, to supply the needs of such
5999 institution for alcoholic beverages for such purposes, provided that (i) the State Health Commissioner has issued
6000 a certificate stating that such institution has need for such alcoholic beverages and (ii) preference is accorded
6001 by the Board to institutions supported either in whole or in part by public funds. A record shall be made showing
6002 the amount issued in each case, to whom issued and the date when issued, and shall be kept in the offices of the
6003 State Health Commissioner and the Board. No charge shall be made to any patient for the alcoholic beverages

6004 supplied to him where they have been received from the Board pursuant to this section. Such alcoholic
6005 beverages shall be administered only upon approval of the patient's physician.

6006 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in
6007 accordance with this section are usable, should not be destroyed and cannot be sold or whose sale would be
6008 impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the
6009 local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made
6010 showing the nature of the foodstuffs and amount given, to whom given and the date when given, and shall be
6011 kept in the offices of the Board.

6012 **§ 4.1-348. Beverages not licensed under this subtitle.**

6013 The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages which may be
6014 manufactured and sold without any license under the provisions of this ~~title~~ subtitle.

6015 **§ 4.1-349. Punishment for violations of title or regulations; bond.**

6016 A. Any person convicted of a misdemeanor under the provisions of this ~~title~~ subtitle without specification
6017 as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of
6018 violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

6019 B. In addition to the penalties imposed by this ~~title~~ subtitle for violations, any court before whom any person
6020 is convicted of a violation of any provision of this ~~title~~ subtitle may require such defendant to execute bond,
6021 with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not
6022 violate any of the provisions of this ~~title~~ subtitle for the term of one year. If any such bond is required and is
6023 not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court,
6024 provided he shall not be confined for a period longer than six months. If any such bond required by a court is
6025 not given during the term of the court by which conviction is had, it may be given before any judge or before
6026 the clerk of such court.

6027 C. The provisions of this ~~title~~ subtitle shall not prevent the Board from suspending, revoking or refusing to
6028 continue the license of any person convicted of a violation of any provision of this ~~title~~ subtitle.

6029 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has
6030 been notified that such a case is pending.

6031 **§ 4.1-350. Witness not excused from testifying because of self-incrimination.**

6032 No person shall be excused from testifying for the Commonwealth as to any offense committed by another
6033 under this ~~title~~ subtitle by reason of his testimony tending to incriminate him. The testimony given by such
6034 person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against
6035 him and he shall not be prosecuted for the offense to which he testifies.

6036 **§ 4.1-351. Previous convictions.**

6037 In any indictment, information or warrant charging any person with a violation of any provision of this ~~title~~
6038 subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person
6039 has been previously convicted of a violation of this ~~title~~ subtitle.

6040 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

6041 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the
6042 Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for violations of
6043 this ~~title~~ subtitle and all controversies in any judicial proceedings touching the mixture analyzed by him. On
6044 motion of the accused or any party in interest, the court may require the forensic scientist making the analysis
6045 to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable
6046 time prior to the day on which the case is set for trial.

6047 **§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.**

6048 In any prosecution for violations of this ~~title~~ subtitle, where a sealed container is labeled as containing an
6049 alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the
6050 container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content
6051 of a container, whether sealed or not.

6052 **§ 4.1-354. No recovery for alcoholic beverages illegally sold.**

6053 No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ subtitle may be
 6054 maintained.

6055 SUBTITLE II.
 6056 CANNABIS CONTROL ACT.
 6057 CHAPTER 6.
 6058 GENERAL PROVISIONS.

6059 § 4.1-600. *Definitions.*

6060 *As used in this subtitle, unless the context requires a different meaning:*

6061 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is
 6062 calculated to induce sales of retail marijuana or retail marijuana products, including any written, printed,
 6063 graphic, or other material, billboard, sign, or other outdoor display, publication, or radio or television
 6064 broadcast.

6065 "Advisory Board" means the Cannabis Control Advisory Board established in § 4.1-602.

6066 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

6067 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

6068 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

6069 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to
 6070 be significantly difficult for a typical child under five years of age to open and not to be significantly difficult
 6071 for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that
 6072 contains multiple servings, resealable.

6073 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,
 6074 trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include
 6075 manufacturing or testing.

6076 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
 6077 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

6078 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider
 6079 than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

6080 "Licensed" means the holding of a valid license granted by the Authority.

6081 "Licensee" means any person to whom a license has been granted by the Authority.

6082 "Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing,
 6083 compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or
 6084 preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation
 6085 or testing.

6086 "Marijuana" means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin;
 6087 and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,
 6088 or any extract containing one or more cannabinoids. "Marijuana" does not include the mature stalks of such
 6089 plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber,
 6090 oil, or cake is combined with other parts of plants of the genus *Cannabis*. "Marijuana" does not include (i)
 6091 industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of
 6092 § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol
 6093 concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that
 6094 is grown, dealt, or processed in compliance with state or federal law. "Marijuana" and "cannabis" are
 6095 interchangeable and identical in meaning.

6096 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active
 6097 cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant
 6098 is a concentrate for purposes of this subtitle.

6099 "Marijuana cultivation facility" means a facility licensed under this subtitle to purchase or take possession
 6100 of marijuana plants and seeds from other marijuana cultivation facilities; to cultivate, label, and package retail
 6101 marijuana; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities, to
 6102 marijuana wholesalers, and to other marijuana cultivation facilities; to sell marijuana plants and seeds to other

6103 *marijuana cultivation facilities; and to sell immature marijuana plants and seeds to consumers for the purpose*
6104 *of cultivating marijuana at home for personal use.*

6105 *"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana*
6106 *manufacturing facility, a marijuana wholesaler, or a retail marijuana store.*

6107 *"Marijuana manufacturing facility" means a facility licensed under this subtitle to purchase or take*
6108 *possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing*
6109 *facility; to manufacture, label, and package retail marijuana and retail marijuana products; and to transfer*
6110 *possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail*
6111 *marijuana stores, and other marijuana manufacturing facilities.*

6112 *"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either*
6113 *designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,*
6114 *manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,*
6115 *packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the*
6116 *human body marijuana.*

6117 *"Marijuana products" means products that are composed of marijuana and other ingredients and are*
6118 *intended for use or consumption, ointments, and tinctures.*

6119 *"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test*
6120 *marijuana, marijuana products, and other substances.*

6121 *"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail*
6122 *marijuana and retail marijuana products from a marijuana cultivation facility, a marijuana manufacturing*
6123 *facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana or retail*
6124 *marijuana products to a marijuana manufacturing facility, retail marijuana store, or another marijuana*
6125 *wholesaler.*

6126 *"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed*
6127 *marijuana establishment.*

6128 *"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a*
6129 *licensed marijuana establishment.*

6130 *"Place or premises" means the real estate, together with any buildings or other improvements thereon,*
6131 *designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of*
6132 *retail marijuana or retail marijuana products shall be performed, except that portion of any such building or*
6133 *other improvement actually and exclusively used as a private residence.*

6134 *"Public place" means any place, building, or conveyance to which the public has, or is permitted to have,*
6135 *access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,*
6136 *place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.*

6137 *"Residence" means any building or part of a building or structure where a person resides, but does not*
6138 *include any part of a building that is not actually and exclusively used as a private residence, nor any part of a*
6139 *hotel or club other than a private guest room thereof.*

6140 *"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana*
6141 *establishment.*

6142 *"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed*
6143 *marijuana establishment.*

6144 *"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of*
6145 *marijuana; to purchase retail marijuana and retail marijuana products from a marijuana manufacturing*
6146 *facility or marijuana wholesaler; to receive possession of retail marijuana and retail marijuana products from*
6147 *a marijuana cultivation facility, a marijuana wholesaler, or a marijuana manufacturing facility; and to sell*
6148 *retail marijuana and retail marijuana products to consumers.*

6149 *"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;*
6150 *peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana*
6151 *or retail marijuana products.*

6152 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has
6153 designated as a law-enforcement officer pursuant to this subtitle.

6154 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances
6155 for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

6156 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

6157 A. The General Assembly has determined that there exists in the Commonwealth a need to control the
6158 possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in
6159 the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose
6160 is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and
6161 prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent
6162 political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state
6163 government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and
6164 duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a
6165 matter of public necessity for which public moneys may be spent. The Board of Directors of the Authority is
6166 vested with control of the possession, sale, transportation, distribution, and delivery of retail marijuana and
6167 retail marijuana products in the Commonwealth, with plenary power to prescribe and enforce regulations and
6168 conditions under which retail marijuana and retail marijuana products are possessed, sold, transported,
6169 distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and
6170 to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The
6171 exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the
6172 Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets
6173 or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except
6174 that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more
6175 of its purposes, and benefits may be conferred that are in conformity with said purposes, and no private
6176 individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the
6177 Authority.

6178 B. The Virginia Cannabis Control Authority shall consist of the Virginia Cannabis Board of Directors, the
6179 Chief Executive Officer, and the agents and employees of the Authority.

6180 C. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any powers that
6181 the Board of Directors might otherwise have under any other law of the Commonwealth.

6182 **§ 4.1-602. Cannabis Control Advisory Board.**

6183 A. The Chief Executive Officer of the Authority, in consultation with the Board, shall establish a Cannabis
6184 Control Advisory Board to assist the Authority in the development and operation of the statutory and regulatory
6185 programs governing the sale and use of cannabis. The Advisory Board shall consist of nine nonlegislative
6186 citizen members and one ex officio member. Members shall be representative of the various segments of the
6187 cannabis industry and shall reflect the racial, ethnic, and gender diversity of the Commonwealth. Nonlegislative
6188 citizen members shall be appointed as follows: three to be appointed by the Senate Committee on Rules, one of
6189 whom shall be a person who has been previously incarcerated or convicted of a marijuana-related crime, one
6190 of whom shall be an expert in the field of public health with experience in trauma-informed care, if possible,
6191 and one of whom shall be a medical professional as defined in § 38.2-602 with experience in appropriate public
6192 health duties; three to be appointed by the Speaker of the House of Delegates, at least one of whom shall be a
6193 member of a historically disadvantaged community; and three to be appointed by the Governor, subject to
6194 confirmation by the General Assembly, one of whom shall be an expert in consumer interest policies, one of
6195 whom shall be a small-acreage farmer who is a member of a historically disadvantaged community, and one
6196 of whom shall be a registered industrial hemp grower or registered industrial hemp processor. Each member
6197 shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his
6198 appointment, and his continued residency shall be a condition of his tenure in office and (ii) possess
6199 demonstrated experience or expertise in the regulation, manufacture, cultivation, or health effects of cannabis.
6200 Members shall be subject to a background check in accordance with § 4.1-609. The Director of Diversity,
6201 Equity, and Inclusion shall serve ex officio without voting privileges.

6202 *B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four*
6203 *years. The ex officio member shall serve a term coincident with his term in office. All members shall serve until*
6204 *their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member*
6205 *shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may*
6206 *serve two additional consecutive terms. Members of the Advisory Board may be removed from office by the*
6207 *Advisory Board for cause, including the improper use of its police powers, malfeasance, misfeasance,*
6208 *incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of*
6209 *the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a*
6210 *lawful directive of the Governor.*

6211 *C. The Governor shall appoint the chairman and vice-chairman of the Advisory Board from among the*
6212 *membership of the Advisory Board. The Advisory Board may also form committees and advisory councils,*
6213 *which may include representatives who are not members of the Advisory Board, to undertake more extensive*
6214 *study and discussion of the issues before the Advisory Board. A majority of the Advisory Board shall constitute*
6215 *a quorum for the transaction of business, and no vacancy in the membership shall impair the right of a quorum*
6216 *to exercise the rights and perform all duties of the Advisory Board.*

6217 *D. Members of the Advisory Board shall receive no compensation for the performance of their duties but*
6218 *shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as*
6219 *provided in §§ 2.2-2813 and 2.2-2825.*

6220 *E. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall*
6221 *apply to the members of the Advisory Board.*

6222 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**
6223 **compensation and expenses; duties.**

6224 *A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory*
6225 *council to the Advisory Board. The purpose of the Advisory Council is to assess and monitor public health*
6226 *issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations*
6227 *regarding health warnings, retail marijuana and retail marijuana products safety and product composition,*
6228 *and public health awareness, programming, and related resource needs.*

6229 *B. The Advisory Council shall have a total membership of 21 members that shall consist of 14 nonlegislative*
6230 *citizen members and seven ex officio members. Nonlegislative citizen members of the Council shall be citizens*
6231 *of the Commonwealth and shall reflect the racial, ethnic, and gender diversity of the Commonwealth.*
6232 *Nonlegislative citizen members shall be appointed as follows: five to be appointed by the Senate Committee on*
6233 *Rules, one of whom shall be a representative from the Virginia Foundation for Healthy Youth, one of whom*
6234 *shall be a representative from the Virginia Chapter of the American Academy of Pediatrics, one of whom shall*
6235 *be a representative from the Medical Society of Virginia, one of whom shall be a representative from the*
6236 *Virginia Pharmacists Association, and one of whom shall be a representative from a community services board;*
6237 *five to be appointed by the Speaker of the House of Delegates, one of whom shall be a person or health care*
6238 *provider with expertise in substance use disorder treatment and recovery, one of whom shall be a person or*
6239 *health care provider with expertise in substance use disorder prevention, one of whom shall be a person with*
6240 *experience in disability rights advocacy, one of whom shall be a person with experience in veterans health care,*
6241 *and one of whom shall be a person with a social or health equity background; and four to be appointed by the*
6242 *Governor, subject to confirmation by the General Assembly, one of whom shall be a representative of a local*
6243 *health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an*
6244 *academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis*
6245 *patient.*

6246 *The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of*
6247 *Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the*
6248 *Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the*
6249 *Chief Executive Officer of the Virginia Alcoholic Beverage and Cannabis Control Authority, or their designees,*
6250 *shall serve ex officio with voting privileges. Ex officio members of the Advisory Council shall serve terms*
6251 *coincident with their terms of office.*

6252 *After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four*
6253 *years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.*
6254 *Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.*

6255 *The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.*
6256 *The Advisory Council shall select a vice-chairman from among its membership. A majority of the members*
6257 *shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the*
6258 *call of the chairman or whenever the majority of the members so request.*

6259 *The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,*
6260 *and state agency representatives.*

6261 *C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for*
6262 *all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813*
6263 *and 2.2-2825.*

6264 *D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to*
6265 *fulfill its purpose as described in subsection A:*

6266 *1. To review multi-agency efforts to support collaboration and a unified approach on public health*
6267 *responses related to marijuana and marijuana legalization in the Commonwealth and to develop*
6268 *recommendations as necessary.*

6269 *2. To monitor changes in drug use data related to marijuana and marijuana legalization in the*
6270 *Commonwealth and the science and medical information relevant to the potential health risks associated with*
6271 *such drug use, and make appropriate recommendations to the Department of Health and the Advisory Board.*

6272 *3. Submit an annual report to the Governor and the General Assembly for publication as a report document*
6273 *as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative*
6274 *documents and reports. The chairman shall submit to the Governor and the General Assembly an annual*
6275 *executive summary of the interim activity and work of the Advisory Council no later than the first day of each*
6276 *regular session of the General Assembly. The executive summary shall be submitted as a report document as*
6277 *provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative*
6278 *documents and reports and shall be posted on the General Assembly's website.*

6279 **§ 4.1-604. Powers and duties of the Board.**

6280 *The Board shall have the following powers and duties:*

6281 *1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §*
6282 *4.1-606;*

6283 *2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;*

6284 *3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of*
6285 *marijuana and marijuana products as provided by law;*

6286 *4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be*
6287 *kept or sold and prescribe the form and content of all labels and seals to be placed thereon;*

6288 *5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;*

6289 *6. Establish standards and implement an online course for employees of retail marijuana stores that trains*
6290 *employees on how to educate consumers on the potential risks of marijuana use;*

6291 *7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar*
6292 *document regarding the potential risks of marijuana use to be prominently displayed and made available to*
6293 *consumers;*

6294 *8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity*
6295 *and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related*
6296 *to diversity, equity, and inclusion standards in the marijuana industry;*

6297 *9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements*
6298 *for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess more*
6299 *than one license, and an approval process and requirements for implementation of such plans; (ii) be*
6300 *responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-*
6301 *owned businesses and veteran-owned businesses interested in participating in the marijuana industry and*

6302 *recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business*
6303 *planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities*
6304 *related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and*
6305 *enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana*
6306 *establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by*
6307 *marijuana prohibition and enforcement as necessary;*

6308 10. *Establish a position for an individual with professional experience in a health related field who shall*
6309 *staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of*
6310 *the Secretary of Health and Human Resources and relevant health and human services agencies and*
6311 *organizations, and perform other duties as needed.*

6312 11. *Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the*
6313 *Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry*
6314 *by people from communities that have been disproportionately impacted by marijuana prohibition and*
6315 *enforcement and to positively impact those communities;*

6316 12. *Sue and be sued, implead and be impleaded, and complain and defend in all courts;*

6317 13. *Adopt, use, and alter at will a common seal;*

6318 14. *Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale*
6319 *of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose*
6320 *of providing for the payment of the expenses of the Authority;*

6321 15. *Make and enter into all contracts and agreements necessary or incidental to the performance of its*
6322 *duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements*
6323 *with any person or federal agency;*

6324 16. *Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,*
6325 *investment bankers, superintendents, managers, and such other employees and special agents as may be*
6326 *necessary and fix their compensation to be payable from funds made available to the Authority. Legal services*
6327 *for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of*
6328 *Title 2.2;*

6329 17. *Receive and accept from any federal or private agency, foundation, corporation, association, or person*
6330 *grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept*
6331 *from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or*
6332 *from any other source aid or contributions of either money, property, or other things of value, to be held, used,*
6333 *and applied only for the purposes for which such grants and contributions may be made. All federal moneys*
6334 *accepted under this section shall be accepted and expended by the Authority upon such terms and conditions*
6335 *as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under*
6336 *this section shall be expended by the Authority upon such terms and conditions as are prescribed by the*
6337 *Commonwealth;*

6338 18. *Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall*
6339 *be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.*
6340 *The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee*
6341 *of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any*
6342 *delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the*
6343 *exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive*
6344 *summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to*
6345 *ensure faithful performance of the duties and tasks;*

6346 19. *Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's*
6347 *purposes or necessary or convenient to exercise its powers;*

6348 20. *Develop policies and procedures generally applicable to the procurement of goods, services, and*
6349 *construction, based upon competitive principles;*

6350 21. *Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title*
6351 *2.2;*

6352 22. *Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,*
 6353 *tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the*
 6354 *Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,*
 6355 *at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to*
 6356 *any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time*
 6357 *acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and*
 6358 *conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed,*
 6359 *tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and*
 6360 *conditions as may be determined by the Board; and occupy and improve any land or building required for the*
 6361 *purposes of this subtitle;*

6362 23. *Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered*
 6363 *necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and*
 6364 *processing plants;*

6365 24. *Appoint every agent and employee required for its operations, require any or all of them to give bonds*
 6366 *payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts*
 6367 *and professionals;*

6368 25. *Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production*
 6369 *of records, memoranda, papers, and other documents before the Board or any agent of the Board, and*
 6370 *administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the*
 6371 *Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and*
 6372 *decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may*
 6373 *enter into consent agreements and may request and accept from any applicant or licensee a consent agreement*
 6374 *in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent*
 6375 *agreement shall include findings of fact and may include an admission or a finding of a violation. A consent*
 6376 *agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under*
 6377 *the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in*
 6378 *future disciplinary proceedings;*

6379 26. *Make a reasonable charge for preparing and furnishing statistical information and compilations to*
 6380 *persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions*
 6381 *if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining*
 6382 *the information requested if such information is not to be used for commercial or trade purposes;*

6383 27. *Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;*

6384 28. *Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive*
 6385 *Officer as the Board deems appropriate;*

6386 29. *Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement*
 6387 *activities undertaken to enforce the provisions of this subtitle;*

6388 30. *Establish and collect fees for all permits set forth in this subtitle, including fees associated with*
 6389 *applications for such permits;*

6390 31. *Impose reasonable restrictions on advertising in accordance with the provisions of this subtitle;*

6391 32. *Develop and make available on its website guidance documents regarding compliance and safe*
 6392 *practices for persons who cultivate marijuana at home for personal use, which shall include information*
 6393 *regarding cultivation practices that promote personal and public safety, including child protection, and*
 6394 *discourage practices that create a nuisance; and*

6395 33. *Do all acts necessary or advisable to carry out the purposes of this subtitle.*

6396 **§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.**

6397 A. *As used in this section:*

6398 *"Appropriate case" means any alleged license violation or objection to the application for a license in*
 6399 *which it is apparent that there are significant issues of disagreement among interested persons and for which*
 6400 *the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.*

6401 *"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.*

6402 *"Mediation" means the same as that term is defined in § 8.01-576.4.*

6403 *"Neutral" means the same as that term is defined in § 8.01-576.4.*

6404 *B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve*
6405 *underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute*
6406 *resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than*
6407 *limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding*
6408 *may be used for an objection to the issuance of a license only with the consent of, and participation by, the*
6409 *applicant for licensure and shall be terminated at the request of such applicant.*

6410 *C. Any resolution of a contested issue accepted by the Board under this section shall be considered a*
6411 *consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding*
6412 *is in the Board's sole discretion and shall not be subject to judicial review.*

6413 *D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-*
6414 *4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and*
6415 *procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for*
6416 *interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of*
6417 *a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii)*
6418 *procedures to protect the confidentiality of papers, work products, or other materials.*

6419 *E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution*
6420 *proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or*
6421 *relies on information obtained in the course of such proceeding in granting a license, suspending or revoking*
6422 *a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed*
6423 *by the parties shall not be confidential.*

6424 **§ 4.1-606. Regulations of the Board.**

6425 *A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general*
6426 *laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent*
6427 *the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The Board may*
6428 *amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance*
6429 *with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.*

6430 *B. The Board shall promulgate regulations that:*

6431 *1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including*
6432 *security requirements to include lighting, physical security, and alarm requirements, provided that such*
6433 *requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;*

6434 *2. Establish requirements for securely transporting marijuana between marijuana establishments;*

6435 *3. Establish sanitary standards for retail marijuana product preparation;*

6436 *4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Chapter 14*
6437 *(§ 4.1-1400 et seq.);*

6438 *5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in*
6439 *a way that, when possible, prevents disparate impacts on historically disadvantaged communities;*

6440 *6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail*
6441 *marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions*
6442 *of this subtitle;*

6443 *7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not exceed*
6444 *(i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount for*
6445 *other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where*
6446 *practicable an equivalent amount for other marijuana products. Such regulations may include other product*
6447 *and dispensing limitations on tetrahydrocannabinol;*

6448 *8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;*

6449 *9. Provide alternative methods for licensees to maintain and store business records that are subject to*
6450 *Board inspection, including methods for Board-approved electronic and offsite storage;*

6451 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores
6452 in the community and (ii) metrics that have similarly shown an association with negative community-level
6453 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the
6454 Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

6455 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
6456 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
6457 record with the Board by certified mail, return receipt requested, and by regular mail;

6458 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to
6459 subsection C of § 4.1-1002;

6460 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana
6461 or retail marijuana products, not inconsistent with the provisions of this subtitle, so that such advertising does
6462 not encourage or otherwise promote the consumption of retail marijuana or retail marijuana products by
6463 persons to whom retail marijuana or retail marijuana products may not be lawfully sold. Such regulations shall
6464 be promulgated in accordance with § 4.1-1404;

6465 14. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant
6466 who has lived for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent
6467 ownership by a person or persons who have been arrested for, convicted of, or adjudicated delinquent for any
6468 marijuana offenses that are eligible for expungement pursuant to § 19.2-392.2 or 19.2-392.2:1; (ii) an applicant
6469 with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a
6470 person who has been arrested for, convicted of, or adjudicated delinquent for any marijuana offenses that are
6471 eligible for expungement under § 19.2-392.2 or 19.2-392.2:1; (iii) an applicant with at least 66 percent
6472 ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that
6473 is determined by the Board to have been disproportionately policed for marijuana crimes; (iv) an applicant
6474 with at least 66 percent ownership by a person or persons who have resided for at least three of the last five
6475 years in a jurisdiction determined by the Board as economically distressed; (v) for applicants with a minimum
6476 of 10 full-time employees, an applicant with at least 66 percent of current employees who meet the qualifications
6477 in clauses (i), (ii), or (iii); (vi) an applicant with at least 66 percent ownership by a person or persons who
6478 attended a historically black college or university; or (vii) an applicant that distributes at least 50 percent of
6479 its gross profit to owners or employees who are members of a racial or ethnic group that has been
6480 disproportionately policed for marijuana crimes;

6481 15. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish
6482 standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana
6483 crimes and (ii) which jurisdictions are economically distressed;

6484 16. Establish standards and requirements for (i) any preference in the licensing process for qualified social
6485 equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity
6486 applicant, and (iii) a low-interest business loan program for qualified social equity applicants; and

6487 17. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation
6488 of marijuana that promote personal and public safety, including child protection, and discourage personal
6489 cultivation practices that create a nuisance, including a nuisance caused by odor.

6490 C. The Board may promulgate regulations that:

6491 1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the
6492 Board shall not limit the number of Class B marijuana cultivation facility licenses issued.

6493 2. Provide for the issuance of additional classes of state license to a marijuana establishment.

6494 3. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and
6495 4.1-1004, including method of filing a return, information required on a return, and form of payment.

6496 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
6497 licensees.

6498 E. Courts shall take judicial notice of Board regulations.

6499 F. The Board's power to regulate shall be broadly construed.

6500 *G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy*
6501 *to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5*
6502 *et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any*
6503 *applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security*
6504 *requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance*
6505 *with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis*
6506 *dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of*
6507 *Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this*
6508 *subtitle.*

6509 **§ 4.1-607. Board membership; terms; compensation.**

6510 *A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large*
6511 *appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of*
6512 *the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at*
6513 *least three years next preceding his appointment, and his continued residency shall be a condition of his tenure*
6514 *in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess*
6515 *a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or*
6516 *control of a business or legal affairs. Appointees shall reflect the racial, ethnic, and gender diversity of the*
6517 *Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-609.*

6518 *B. After the initial staggering of terms, members shall be appointed for a term of five years. All members*
6519 *shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired*
6520 *term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms;*
6521 *however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the*
6522 *Board may be removed from office by the Governor for cause, including the improper use of its police powers,*
6523 *malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure*
6524 *to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly,*
6525 *or refusal to carry out a lawful directive of the Governor.*

6526 *C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership*
6527 *of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The*
6528 *Board may also form committees and advisory councils, which may include representatives who are not*
6529 *members of the Board, to undertake more extensive study and discussion of the issues before the Board. A*
6530 *majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy*
6531 *in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the*
6532 *Authority.*

6533 *D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be*
6534 *held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written*
6535 *request of a majority of the Board members.*

6536 *E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses*
6537 *for the performance of their official duties as set forth in the general appropriation act for members of the*
6538 *House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall*
6539 *receive annually such salary, compensation, and reimbursement of expenses for the performance of his official*
6540 *duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General*
6541 *Assembly is not in session.*

6542 *F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall*
6543 *apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the*
6544 *Authority.*

6545 **§ 4.1-608. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential**
6546 **assistant to the Chief Executive Officer.**

6547 *A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the*
6548 *affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive*
6549 *Officer shall not be a member of the Board, shall hold, at a minimum, a baccalaureate degree in business or a*

6550 related field of study, and shall possess a minimum of seven years of demonstrated experience or expertise in
6551 the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall
6552 receive such compensation as determined by the Board and approved by the Governor, including any
6553 performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject
6554 to a background check in accordance with § 4.1-609. The Chief Executive Officer shall (i) carry out the powers
6555 and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures
6556 or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from
6557 office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance,
6558 misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet
6559 performance measures or targets as set by the Board and approved by the Governor, failure to carry out the
6560 policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry
6561 out a lawful directive of the Governor.

6562 B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall
6563 not be engaged in any other profession or occupation.

6564 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance
6565 with this subtitle.

6566 D. The Chief Executive Officer shall:

6567 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority
6568 and preserve at the Authority's general office all books, documents, and papers of the Authority;

6569 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be
6570 conferred or imposed upon him by law;

6571 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be
6572 necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's
6573 approval; and

6574 4. Make recommendations to the Board for legislative and regulatory changes.

6575 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief
6576 Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level
6577 or cause such a contribution to be made on his behalf.

6578 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint
6579 one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

6580 **§ 4.1-609. Background investigations of Board members and Chief Executive Officer.**

6581 All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition
6582 of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national
6583 criminal history records search and to the Department of State Police for a Virginia criminal history records
6584 search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations
6585 conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who
6586 (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or
6587 authority by making or filing any report, document, or tax return required by statute or regulation that is
6588 fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to
6589 deceive any federal, state, or local government or governmental agency or governmental authority by making
6590 or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has
6591 been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to
6592 the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately
6593 preceding appointment.

6594 **§ 4.1-610. Financial interests of Board, employees, and family members prohibited.**

6595 No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have
6596 any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or in any entity
6597 that has submitted an application for a license under Chapter 8 (§ 4.1-800 et seq.). No Board member and no
6598 spouse or immediate family member of a Board member shall make any contribution to a candidate for office
6599 or officeholder at the local or state level or cause such a contribution to be made on his behalf.

6600 **§ 4.1-611. Seed-to-sale tracking system.**

6601 *To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana*
 6602 *establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and*
 6603 *maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant*
 6604 *stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.*

6605 **§ 4.1-612. Moneys of Authority.**

6606 *All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-614.*

6607 **§ 4.1-613. Forms of accounts and records; audit; annual report.**

6608 *A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever*
 6609 *source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts*
 6610 *or his legally authorized representatives shall annually examine the accounts and books of the Authority. The*
 6611 *Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of*
 6612 *each year. Such report shall contain the audited annual financial statements of the Authority for the year ending*
 6613 *the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast,*
 6614 *assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions*
 6615 *of services and tangible or intangible property, any material changes to the policies and procedures issued by*
 6616 *the Authority related to procurement or personnel, and any proposed marketing activities.*

6617 *B. Notwithstanding any other provision of law, in exercising any power conferred under this subtitle, the*
 6618 *Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These*
 6619 *systems and related procedures shall be subject to review and approval by the State Comptroller. Upon*
 6620 *agreement with the State Comptroller, the Authority may report summary level detail on both payroll and*
 6621 *nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management*
 6622 *system or its successor system. Such reports shall be made in accordance with policies, procedures, and*
 6623 *directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all*
 6624 *disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel*
 6625 *reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.*

6626 **§ 4.1-614. Disposition of moneys collected by the Board.**

6627 *A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be*
 6628 *deposited to the credit of the State Treasurer in a state depository, without any deductions on account of*
 6629 *salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-*
 6630 *1802.*

6631 *All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall*
 6632 *be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries*
 6633 *and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred*
 6634 *in the administration of this subtitle.*

6635 *B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to*
 6636 *the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise*
 6637 *provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits*
 6638 *quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the*
 6639 *administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment*
 6640 *owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection*
 6641 *A, net profits shall be appropriated in the general appropriation act as follows:*

- 6642 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
- 6643 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4;
- 6644 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall
- 6645 *distribute such appropriated funds to community services boards for the purpose of administering substance*
 6646 *use disorder prevention and treatment programs; and*
- 6647 4. Five percent to public health programs.

6648 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local
6649 marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs,
6650 expenses, and charges authorized by this section.

6651 D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in
6652 subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name
6653 "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which
6654 they were collected. If revenues were collected from a marijuana establishment located in more than one
6655 locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall
6656 be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and
6657 assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

6658 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper
6659 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged
6660 to the account of each such locality under the special fund created by this section. If errors are made in any
6661 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some
6662 other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

6663 **§ 4.1-615. Leases and purchases of property by the Board.**

6664 The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle
6665 are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Authority shall be exempt from
6666 the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and
6667 Buildings in relation to leases of real property into which it enters.

6668 **§ 4.1-616. Exemptions from taxes or assessments.**

6669 The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of
6670 the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living
6671 conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes
6672 the performance of essential governmental functions, the Authority shall not be required to pay any taxes or
6673 assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon
6674 the income therefrom, including sales and use taxes on the tangible personal property used in the operations
6675 of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting
6676 on the premises of any property of the Authority businesses for which local or state taxes would otherwise be
6677 required.

6678 **§ 4.1-617. Exemption of Authority from personnel and procurement procedures; information systems;
6679 etc.**

6680 A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement
6681 Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this
6682 subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et
6683 seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.

6684 B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction
6685 and the disposition of surplus materials shall be exempt from:

6686 1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from
6687 the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

6688 2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117;
6689 and

6690 3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods,
6691 services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2,
6692 regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Department
6693 of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the
6694 oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for
6695 the construction of the Authority's capital projects and construction-related professional services under § 2.2-
6696 1132.

6697 C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services,
 6698 including information technology goods and services; (ii) shall use directly or by integration or interface the
 6699 Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the
 6700 Authority and the Department of General Services; and (iii) shall post on the Department of General Services'
 6701 central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices,
 6702 and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on
 6703 one website.

6704 **§ 4.1-618. Reversion to the Commonwealth.**

6705 In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors,
 6706 shall revert to the Commonwealth.

6707 **§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
 6708 **communications as alternative to regular mail; limitation.**

6709 A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and such mail
 6710 or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is
 6711 sent by the Board may be sent by regular mail.

6712 B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to send
 6713 any mail, notice, or other official communication by regular mail to persons licensed under Chapter 8 (§ 4.1-
 6714 800 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official
 6715 communication by email, text message, or other electronic means to the email address, telephone number, or
 6716 other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof
 6717 of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by
 6718 the Board confirming the electronic delivery.

6719 C. No notice required by § 4.1-903 to a licensee of a hearing that may result in the suspension or revocation
 6720 of his license or the imposition of a civil penalty shall be sent by the Board by email, text message, or other
 6721 electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty
 6722 be sent by the Board by email, text message, or other electronic means.

6723 **§ 4.1-620. Reports and accounting systems of Board; auditing books and records.**

6724 A. The Board shall make reports to the Governor as he may require covering the administration and
 6725 enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor, the General
 6726 Assembly, the Chief Executive Officer, and the Advisory Board on or before December 15 each year, which
 6727 shall contain:

- 6728 1. The number of state licenses of each category issued pursuant to this subtitle;
- 6729 2. Demographic information concerning the licensees;
- 6730 3. A description of enforcement and disciplinary actions taken against licensees;
- 6731 4. A statement of revenues and expenses related to the implementation, administration, and enforcement of
 6732 this subtitle;
- 6733 5. A statement showing the taxes collected under this subtitle during the year;
- 6734 6. General information and remarks about the working of the cannabis control laws within the
 6735 Commonwealth;
- 6736 7. A description of the efforts undertaken by the Board to promote diverse business ownership within the
 6737 cannabis industry; and
- 6738 8. Any other information requested by the Governor.

6739 B. The Board shall maintain an accounting system in compliance with generally accepted accounting
 6740 principles and approved in accordance with § 2.2-803.

6741 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit
 6742 of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the
 6743 Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations
 6744 shall be borne by the Board. The Board may order such other audits as it deems necessary.

6745 **§ 4.1-621. Certain information not to be made public.**

6746 *Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records*
6747 *required pursuant to this subtitle; (ii) the purchase orders and invoices for retail marijuana or retail marijuana*
6748 *products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from, refunded to, or*
6749 *adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the*
6750 *Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected*
6751 *pursuant to this subtitle and to purchase orders and invoices for retail marijuana or retail marijuana products*
6752 *filed with the Board by marijuana wholesaler licensees.*

6753 *Nothing contained in this section shall prohibit the use or release of such information or documents by the*
6754 *Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,*
6755 *or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall*
6756 *this section prohibit the Board or its employees from compiling and disseminating to any member of the public*
6757 *aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal*
6758 *or disclose tax collection from any identified licensee; (b) the total amount of retail marijuana or retail*
6759 *marijuana products sales in the Commonwealth by marijuana wholesaler licensees collectively; or (c) the total*
6760 *amount of purchases or sales submitted by licensees, provided that such information does not identify the*
6761 *licensee.*

6762 **§ 4.1-622. Criminal history records check required on certain employees; reimbursement of costs.**

6763 *All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds*
6764 *or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.*

6765 *The Board shall develop policies regarding the employment of persons who have been convicted of a felony*
6766 *or a crime involving moral turpitude.*

6767 *The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted*
6768 *pursuant to this section.*

6769 **§ 4.1-623. Employees of the Authority.**

6770 *Employees of the Authority shall be considered employees of the Commonwealth. Employees of the*
6771 *Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as*
6772 *authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related*
6773 *insurance and other benefits, including premium conversion and flexible benefits, available to state employees*
6774 *as provided by law. Employees of the Authority shall be employed on such terms and conditions as established*
6775 *by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance*
6776 *rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit*
6777 *discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical*
6778 *conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other*
6779 *provision of law, the Board shall develop, implement, and administer a paid leave program, which may include*
6780 *annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in*
6781 *accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.*

6782 **§ 4.1-624. Police power of members, agents, and employees of Board.**

6783 *Members of the Board are vested, and such agents and employees of the Board designated by it shall be*
6784 *vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth*
6785 *as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2;*
6786 *and (iv) § 58.1-1037.*

6787 **§ 4.1-625. Liability of Board members; suits by and against Board.**

6788 *A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties*
6789 *as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of*
6790 *Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.*

6791 *B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond*
6792 *to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the*
6793 *proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the*
6794 *names of, the members of the Board.*

6795 **§ 4.1-626. Counsel for members, agents, and employees of Board.**

6796 *If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise prosecuted on any*
6797 *charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ*
6798 *special counsel approved by the Attorney General to defend such member, agent, or employee. The*
6799 *compensation for special counsel employed pursuant to this section, shall, subject to the approval of the*
6800 *Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle*
6801 *are paid.*

6802 **§ 4.1-627. Hearings; representation by counsel.**

6803 *Any licensee or applicant for any license granted by the Board shall have the right to be represented by*
6804 *counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required*
6805 *to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-*
6806 *examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and*
6807 *make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-*
6808 *3904.*

6809 **§ 4.1-628. Hearings; allowances to witnesses.**

6810 *Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses*
6811 *as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be*
6812 *paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.*

6813 **§ 4.1-629. Local referendum to prevent establishment of retail marijuana stores.**

6814 *A. A petition signed by qualified voters equal in number to at least 10 percent of the number registered in*
6815 *the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater, may*
6816 *be filed with the circuit court of the county or city, or of the county wherein the town or the greater part thereof*
6817 *is situated, asking that a referendum be held on the question of whether the operation of retail marijuana stores*
6818 *shall be prohibited within that jurisdiction. Upon the filing of a petition, the court shall order the election*
6819 *officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question.*
6820 *The court order shall set the date for the referendum in conformity with the requirements of § 24.2-682, but in*
6821 *no event shall such date be more than 90 days from the date the order is issued. The clerk of the circuit court*
6822 *shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a*
6823 *week for three consecutive weeks prior to the referendum.*

6824 *The question on the ballot shall be:*

6825 *"Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city, or*
6826 *town)?"*

6827 *The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon*
6828 *the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to*
6829 *the governing body of the county, city, or town.*

6830 *C. Once a referendum has been held, no other referendum on the same question shall be held in the county,*
6831 *city, or town within four years of the date of the prior referendum. However, a town shall not be proscribed*
6832 *from holding a referendum within such period although an election has been held in the county in which the*
6833 *town or a part thereof is located less than four years prior thereto.*

6834 **§ 4.1-630. Effect of local option referenda.**

6835 *A. If in any referendum held under the provisions of § 4.1-629 in any county, city, or town a majority of the*
6836 *qualified voters vote "Yes" on the question, then on and after the date of the order of the court setting forth the*
6837 *results of such referendum was entered of record, retail marijuana stores shall be prohibited in such county,*
6838 *city, or town.*

6839 *B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters*
6840 *have previously voted to prohibit the operation of retail marijuana stores and in a subsequent election a*
6841 *majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-629, then such retail*
6842 *marijuana stores shall, in accordance with this subtitle, be allowed within the county, city, or town on and after*
6843 *60 days from the day on which the order of the court setting forth the results of such election is entered of*
6844 *record.*

6845 C. For the purpose of this section, when any referendum is held in any town, separate and apart from the
 6846 county in which such town or a part thereof is located, such town shall be treated as being separate and apart
 6847 from such county.

6848 **§ 4.1-631. Contests of local option referenda.**

6849 The regularity or legality of any referendum held pursuant to § 4.1-629 shall be subject to the inquiry,
 6850 determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the
 6851 complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the
 6852 results of the referendum are certified and setting out fully the grounds of contest. The complaint and the
 6853 proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the judgment of the
 6854 court entered of record shall be a final determination of the regularity and legality of the referendum.

6855 **§ 4.1-632. Local ordinances or resolutions regulating retail marijuana or retail marijuana products.**

6856 A. No county, city, or town shall, except as provided in § 4.1-633, adopt any ordinance or resolution that
 6857 regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution, handling,
 6858 transportation, consumption, use, advertising, or dispensing of retail marijuana or retail marijuana products
 6859 in the Commonwealth.

6860 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that prohibits the
 6861 acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty for violation
 6862 thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail marijuana
 6863 products containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public
 6864 street.

6865 C. Except as provided in this section, all local acts, including charter provisions and ordinances of counties,
 6866 cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such
 6867 inconsistency.

6868 **§ 4.1-633. Local ordinances regulating time of sale of retail marijuana and retail marijuana products.**

6869 The governing body of each county may adopt ordinances effective in that portion of such county not
 6870 embraced within the corporate limits of any incorporated town, and the governing body of each city and town
 6871 may adopt ordinances effective in such city or town, fixing hours during which retail marijuana and retail
 6872 marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for
 6873 violations of any such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with
 6874 a right of appeal pursuant to § 16.1-106.

6875 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing
 6876 body adopting it and transmitted to the Board.

6877 On and after the effective date of any ordinance adopted pursuant to this section, no retail marijuana store
 6878 shall sell retail marijuana and retail marijuana products during the hours limited by the ordinance.

6879 CHAPTER 7.

6880 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

6881 **§ 4.1-700. Exemptions from licensure.**

6882 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
 6883 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§
 6884 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered
 6885 with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of
 6886 Title 3.2; (iii) a manufacturer of an industrial hemp extract or food containing an industrial hemp extract
 6887 operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (iv) a person who
 6888 cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed
 6889 to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this subtitle,
 6890 provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp
 6891 products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et
 6892 seq.) of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on
 6893 the licensed premises a pharmaceutical processing facility in accordance with Article 4.2 (§ 54.1-3442.5 et

6894 *seq.) of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-*
 6895 *4112 et seq.) of Title 3.2.*

6896 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

6897 *The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or retail*
 6898 *marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose*
 6899 *of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board*
 6900 *regulation committed by such agents or employees in connection with their employment.*

6901 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil**
 6902 **penalties.**

6903 *A. Each license granted by the Board shall designate the place where the business of the licensee will be*
 6904 *carried on. Except as provided in § 4.1-804, a separate license shall be required for each separate place of*
 6905 *business.*

6906 *B. No license shall be transferable from one person to another or from one location to another. The Board*
 6907 *may permit a licensee to amend the classification of an existing license without complying with the posting and*
 6908 *publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the*
 6909 *privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade*
 6910 *the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana store licensee is sold*
 6911 *to a new entity, or (iii) there is a change of business at the premises of a retail marijuana store licensee, the*
 6912 *Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of*
 6913 *business, require the licensee to comply with any or all of the requirements of § 4.1-1000. If the Board fails to*
 6914 *exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The*
 6915 *licensee shall submit such written notice to the secretary of the Board.*

6916 *C. Each license shall be posted in a location conspicuous to the public at the place where the licensee*
 6917 *carries on the business for which the license is granted.*

6918 *D. The privileges conferred by any license granted by the Board shall continue until the last day of the*
 6919 *twelfth month next ensuing or the last day of the designated month and year of expiration, except the license*
 6920 *may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or*
 6921 *by operation of law, voluntary surrender, or order of the Board.*

6922 *The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the*
 6923 *fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the*
 6924 *basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided*
 6925 *in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent*
 6926 *of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such*
 6927 *period.*

6928 *The Board may permit a licensee who fails to pay:*

6929 *1. The required license fee covering the continuation or reissuance of his license by midnight of the fifteenth*
 6930 *day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the fee in lieu*
 6931 *of posting and publishing notice and reapplying, provided payment of the fee is made within 30 days following*
 6932 *that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is greater; and*

6933 *2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing notice*
 6934 *and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in*
 6935 *subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.*

6936 *Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.*

6937 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

6938 *A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete, accurate,*
 6939 *and separate records in accordance with Board regulations of all marijuana and marijuana products it*
 6940 *purchased, manufactured, sold, or shipped.*

6941 *B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance*
 6942 *with Board regulations of all purchases of retail marijuana products, the prices charged such licensee therefor,*
 6943 *and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall*

6944 also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee
 6945 shall also keep an accurate account of daily sales, showing quantities of retail marijuana products sold and the
 6946 total price charged by it therefor. Except as otherwise provided in subsections D and E, such account need not
 6947 give the names or addresses of the purchasers thereof, except as may be required by Board regulation.

6948 Notwithstanding the provisions of subsection F, electronic records of licensed retail marijuana stores may
 6949 be stored off site, provided that such records are readily retrievable and available for electronic inspection by
 6950 the Board or its special agents at the licensed premises. However, in the case that such electronic records are
 6951 not readily available for electronic inspection on the licensed premises, the licensee may obtain Board
 6952 approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board
 6953 within three business days or less, as determined by the Board, after a request is made to inspect the records.

6954 C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records in
 6955 accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured, sold,
 6956 or shipped.

6957 D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in
 6958 accordance with Board regulations of all marijuana and marijuana products it developed, researched, or tested
 6959 and the names and addresses of the licensees or persons who submitted the marijuana or marijuana product to
 6960 the marijuana testing facility.

6961 E. The Board and its special agents shall be allowed free access during reasonable hours to every place in
 6962 the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting such
 6963 place and all records, invoices, and accounts therein.

6964 For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable
 6965 hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public
 6966 substantially during the same hours, "reasonable hours" means the business hours when the licensee is open to
 6967 the public. At any other time of day, if the retail marijuana store licensee's records are not available for
 6968 inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request
 6969 is made to inspect the records.

6970 CHAPTER 8.

6971 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

6972 § 4.1-800. Marijuana cultivation facility license.

6973 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize
 6974 the licensee to purchase or take possession of marijuana plants and seeds from other marijuana cultivation
 6975 facilities; to cultivate, label, and package retail marijuana on premises approved by the Board; to transfer
 6976 possession of and to sell retail marijuana to marijuana manufacturing facilities, marijuana wholesalers, and
 6977 other marijuana cultivation facilities; and to sell immature marijuana plants and seeds to consumers for the
 6978 purpose of cultivating marijuana at home for personal use:

6979 1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than a certain
 6980 number of marijuana plants or marijuana plants in an area not larger than a certain number of square feet, as
 6981 determined by the Board;

6982 2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana plants with
 6983 a tetrahydrocannabinol concentration of no more than one percent, as determined post-decarboxylation.

6984 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track
 6985 the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana
 6986 plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana
 6987 manufacturing facility, a marijuana testing facility, a marijuana wholesaler, another marijuana cultivation
 6988 facility, or a consumer or is disposed of or destroyed.

6989 § 4.1-801. Marijuana manufacturing facility license.

6990 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee to
 6991 purchase or take possession of retail marijuana from a marijuana cultivation facility, a marijuana wholesaler,
 6992 or another marijuana manufacturing facility; to manufacture, label, and package retail marijuana and retail
 6993 marijuana products on premises approved by the Board; and to transfer possession and sell retail marijuana

6994 and retail marijuana products to marijuana wholesalers, retail marijuana stores, and other marijuana
6995 manufacturing facilities.

6996 B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a licensed
6997 premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana
6998 products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana
6999 or retail marijuana products.

7000 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail marijuana
7001 and retail marijuana products are manufactured shall meet all sanitary standards specified in regulations
7002 adopted by the Board. A marijuana manufacturing facility that manufactures an edible marijuana product shall
7003 comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted
7004 pursuant thereto.

7005 D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee shall
7006 track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is delivered
7007 or transferred to the marijuana manufacturing facility by a marijuana cultivation facility to the point the retail
7008 marijuana or retail marijuana products produced using the retail marijuana are delivered or transferred to
7009 another marijuana manufacturing facility, a marijuana testing facility, a marijuana wholesaler, or a retail
7010 marijuana store, or are disposed of or destroyed.

7011 **§ 4.1-802. Marijuana testing facility license.**

7012 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,
7013 research, or test retail marijuana, retail marijuana products, and other substances.

7014 B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana
7015 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana or
7016 retail marijuana product for personal use as authorized under § 4.1-1100.

7017 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana
7018 testing facility from developing, researching, or testing substances that are not marijuana or marijuana
7019 products for that facility or for another person.

7020 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and maintain
7021 accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a
7022 third-party accrediting body.

7023 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all
7024 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the
7025 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at
7026 which the marijuana or marijuana products are disposed of or destroyed.

7027 F. A person that has an interest in a marijuana testing facility license shall not have any interest in a
7028 licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana
7029 wholesaler, or a licensed retail marijuana store.

7030 **§ 4.1-803. Marijuana wholesaler license.**

7031 A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to purchase or
7032 take possession of retail marijuana and retail marijuana products from a marijuana cultivation facility, a
7033 marijuana manufacturing facility, or another marijuana wholesaler; and to transfer possession and sell or
7034 resell retail marijuana or retail marijuana products to a marijuana manufacturing facility, a retail marijuana
7035 store, or another marijuana wholesaler.

7036 B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and retail
7037 marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

7038 C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track the retail
7039 marijuana and retail marijuana products from the point at which the retail marijuana or retail marijuana
7040 products are delivered or transferred to the retail marijuana store by a marijuana cultivation facility, a
7041 marijuana manufacturing facility, or another marijuana wholesaler to the point at which the retail marijuana
7042 or retail marijuana products are sold to a retail marijuana store, delivered or transferred to a marijuana testing
7043 facility, or disposed of or destroyed.

7044 **§ 4.1-804. Retail marijuana store license.**

7045 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or
7046 take possession of retail marijuana from a marijuana cultivation facility; to purchase or take possession of
7047 retail marijuana and retail marijuana products from a marijuana wholesaler or marijuana manufacturing
7048 facility; and to receive possession and sell retail marijuana and retail marijuana products to consumers on
7049 premises approved by the Board.

7050 B. Retail marijuana stores shall be operated in accordance with the following provisions:

7051 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

7052 2. A retail marijuana store shall be permitted to sell retail marijuana and retail marijuana products to
7053 consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell marijuana or
7054 marijuana products using:

7055 a. An automated dispensing or vending machine;

7056 b. A drive-through sales window;

7057 c. An Internet-based sales platform; or

7058 d. A delivery service.

7059 3. A retail marijuana store shall not be permitted to sell more than one ounce of marijuana or an equivalent
7060 amount of marijuana product as determined by regulation promulgated by the Board during a single
7061 transaction to one person.

7062 4. A retail marijuana store may sell any other consumable or nonconsumable products that it is otherwise
7063 permitted by law to sell, excluding tobacco or alcohol.

7064 5. A retail marijuana store shall not:

7065 a. Give away any retail marijuana or retail marijuana products;

7066 b. Sell retail marijuana or retail marijuana products to any person when at the time of such sale he knows
7067 or has reason to believe that the person attempting to purchase the retail marijuana or retail marijuana product
7068 is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age; or

7069 c. Employ or allow to volunteer any person younger than 21 years of age.

7070 6. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail
7071 marijuana and retail marijuana products from the point at which the retail marijuana or retail marijuana
7072 products are delivered or transferred to the retail marijuana store by a marijuana cultivation facility, a
7073 marijuana manufacturing facility, or a marijuana wholesaler to the point at which the retail marijuana or retail
7074 marijuana products are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed
7075 of or destroyed.

7076 7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of
7077 Title 3.2.

7078 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of
7079 a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a
7080 means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place
7081 readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-
7082 11.3.

7083 D. Each retail marijuana store licensee shall prominently display and make available for dissemination to
7084 consumers Board-approved information regarding the potential risks of marijuana use.

7085 E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees
7086 educating them on how to discuss the potential risks of marijuana use with consumers.

7087 F. Any retail marijuana store license granted to a cannabis dispensing facility or pharmaceutical processor
7088 that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the
7089 Drug Control Act shall authorize the licensee to exercise any privileges set forth in subsection A at the places
7090 of business designated in the licenses, which may include up to five additional retail establishments of the
7091 licensee.

7092 **§ 4.1-805. Multiple licenses awarded to one person permitted; exceptions.**

7093 A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership
7094 interest or any other type of financial interest, including but not limited to being an investor or serving in a
7095 management position.

7096 B. A person shall be permitted to possess one or any combination of the following licenses: marijuana
7097 cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail
7098 marijuana store license. However, no licensee who has been issued either a marijuana cultivation facility
7099 license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store
7100 license shall be issued a marijuana testing facility license or have any interest in a marijuana testing facility
7101 licensee. Additionally, no licensee who has been issued a marijuana testing facility license shall be issued a
7102 marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license,
7103 or retail marijuana store license or have any interest in a marijuana cultivation facility licensee, marijuana
7104 manufacturing facility licensee, marijuana wholesaler licensee, or retail marijuana store licensee.

7105 C. Additionally, no person shall be permitted to have any interest in more than five marijuana cultivation
7106 facility licensees. However, the Board may approve an application from a person who holds an interest in more
7107 than five marijuana cultivation facility licensees if, after January 1, 2024, the Board adopts a regulation
7108 authorizing a person to hold an interest in more than five marijuana cultivation facility licensees.

7109 D. Any person who wishes to possess a license in more than one license category pursuant to subsection B
7110 shall pay a \$1 million fee to the Board. The Board shall allocate such fees to the following: (i) the Virginia
7111 Cannabis Equity Loan Fund, (ii) the Virginia Cannabis Equity Reinvestment Fund, or (iii) a program, as
7112 determined by the Board, that provides job training services to persons recently incarcerated.

7113 In addition, any licensee who wishes to possess more than one license pursuant to subsection B shall submit
7114 a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support Team (the Support
7115 Team) for approval, and upon approval shall implement such plan in accordance with the requirements set by
7116 the Support Team.

7117 **§ 4.1-806. Temporary permits required in certain instances.**

7118 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured
7119 creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has
7120 become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana
7121 establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for
7122 such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges
7123 of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may
7124 be issued in advance, conditioned on the requirements in this subsection.

7125 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any
7126 cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary permit
7127 shall be effective upon service of the order of revocation upon the permittee or upon the expiration of three
7128 business days after the order of the revocation has been mailed to the permittee at either his residence or the
7129 address given for the business in the permit application. No further notice shall be required.

7130 **§ 4.1-807. Licensee shall maintain possession of premises.**

7131 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of the
7132 marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement,
7133 or other arrangement for possession of the premises or by virtue of ownership of the premises. If the licensee
7134 fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

7135 **§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee by licensee,
7136 agent, or employee.**

7137 No marijuana or marijuana products may be used or consumed on the premises of a licensee by the licensee
7138 or any agent or employee of the licensee, except for certain sampling for quality control purposes that may be
7139 permitted by Board regulation.

7140 **§ 4.1-809. Conditions under which the Board may refuse to grant licenses.**

7141 The Board may refuse to grant any license if it has reasonable cause to believe that:

- 7142 1. *The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an*
7143 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the*
7144 *applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock,*
7145 *or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or*
7146 *more of the membership interest of the limited liability company:*
- 7147 a. *Is not 21 years of age or older;*
7148 b. *Is not a resident of the Commonwealth;*
7149 c. *Has been convicted in any court of any crime or offense involving moral turpitude under the laws of any*
7150 *state or of the United States within seven years of the date of the application or has not completed all terms of*
7151 *sentencing and probation resulting from any such felony conviction;*
7152 d. *Knowingly employs someone younger than 21 years of age;*
7153 e. *Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership*
7154 *interests in the business that have not been disclosed;*
7155 f. *Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed*
7156 *to be licensed;*
7157 g. *Has misrepresented a material fact in applying to the Board for a license;*
7158 h. *Has defrauded or attempted to defraud the Board, or any federal, state, or local government or*
7159 *governmental agency or authority, by making or filing any report, document, or tax return required by statute*
7160 *or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived*
7161 *or attempted to deceive the Board, or any federal, state, or local government or governmental agency or*
7162 *authority, by making or maintaining business records required by statute or regulation that are false or*
7163 *fraudulent;*
7164 i. *Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his*
7165 *application for a license is pending;*
7166 j. *Is a police officer with police authority in the political subdivision within which the establishment*
7167 *designated in the application is located;*
7168 k. *Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 8 (§ 4.1-800 et*
7169 *seq.) of Title 4.1 or a retailer of tobacco or tobacco products; or*
7170 l. *Is physically unable to carry on the business for which the application for a license is filed or has been*
7171 *adjudicated incapacitated.*
- 7172 2. *The place to be occupied by the applicant:*
- 7173 a. *Does not conform to the requirements of the governing body of the county, city, or town in which such*
7174 *place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements*
7175 *established by the laws of the Commonwealth or by Board regulation;*
7176 b. *Is so located that granting a license and operation thereunder by the applicant would result in violations*
7177 *of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating*
7178 *to peace and good order;*
7179 c. *Is so located with respect to any place of religious worship; hospital; public, private, or parochial school*
7180 *or institution of higher education; public or private playground or other similar recreational facility; substance*
7181 *use disorder treatment facility; or federal, state, or local government-operated facility that the operation of*
7182 *such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs*
7183 *of such facilities or institutions;*
7184 d. *Is so located with respect to any residence or residential area that the operation of such place under*
7185 *such license will adversely affect real property values or substantially interfere with the usual quietude and*
7186 *tranquility of such residence or residential area;*
7187 e. *Is located within 1,000 feet of an existing retail marijuana store; or*
7188 f. *Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement*
7189 *officers and special agents of the Board are prevented from ready access to and reasonable observation of any*
7190 *room or area within which retail marijuana or retail marijuana products are to be sold.*

7191 *Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or premises*
 7192 *until the final stage of the license approval process.*

7193 3. *The number of licenses existing in the locality is such that the granting of a license is detrimental to the*
 7194 *interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider the (i)*
 7195 *criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in*
 7196 *the community; (ii) character of, population of, number of similar licenses, and number of all licenses existent*
 7197 *in the particular county, city, or town and the immediate neighborhood concerned; (iii) effect that a new license*
 7198 *may have on such county, city, town, or neighborhood in conforming with the purposes of this subtitle; and (iv)*
 7199 *objections, if any, that may have been filed by a local governing body or local residents.*

7200 4. *There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political*
 7201 *subdivision thereof that warrants refusal by the Board to grant any license.*

7202 5. *The Board is not authorized under this subtitle to grant such license.*

7203 **§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.**

7204 *The Board shall refuse to grant any license to any member or employee of the Board or to any corporation*
 7205 *or other business entity in which such member or employee is a stockholder or has any other economic interest.*

7206 *Whenever any other elected or appointed official of the Commonwealth or any political subdivision thereof*
 7207 *applies for such a license or continuance thereof, he shall state on the application the official position he holds,*
 7208 *and whenever a corporation or other business entity in which any such official is a stockholder or has any other*
 7209 *economic interest applies for such a license, it shall state on the application the full economic interests of each*
 7210 *such official in such corporation or other business entity.*

7211 **§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**

7212 A. *The action of the Board in granting or in refusing to grant any license shall be subject to judicial review*
 7213 *in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsection B or*
 7214 *C. Such review shall extend to the entire evidential record of the proceedings provided by the Board in*
 7215 *accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of*
 7216 *the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,*
 7217 *stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor*
 7218 *injunction shall lie in any such case.*

7219 B. *The Board may refuse a hearing on any application for the granting of any retail marijuana store license,*
 7220 *provided that such:*

7221 1. *License for the applicant has been refused or revoked within a period of 12 months;*

7222 2. *License for any premises has been refused or revoked at that location within a period of 12 months; or*

7223 3. *Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the*
 7224 *Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending*
 7225 *and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of*
 7226 *this subtitle.*

7227 C. *If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of*
 7228 *expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the*
 7229 *Board may refuse a hearing on an application for a new license until after the date on which the suspension*
 7230 *period would have been executed had the license not have been permitted to expire.*

7231 **CHAPTER 9.**

7232 **ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.**

7233 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

7234 *The Board may suspend or revoke any license if it has reasonable cause to believe that:*

7235 1. *The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an*
 7236 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee*
 7237 *is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the*
 7238 *licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the*
 7239 *membership interest of the limited liability company:*

7240 a. *Has misrepresented a material fact in applying to the Board for such license;*

- 7241 *b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903,*
7242 *has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter*
7243 *13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused*
7244 *to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the*
7245 *conditions or restrictions of the license granted by the Board;*
- 7246 *c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under*
7247 *the laws of any state, or of the United States;*
- 7248 *d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other*
7249 *persons have ownership interests in the business that have not been disclosed;*
- 7250 *e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted*
7251 *under the license granted by the Board;*
- 7252 *f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed*
7253 *premises;*
- 7254 *g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a*
7255 *meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill*
7256 *repute, or has allowed any form of illegal gambling to take place upon such premises;*
- 7257 *h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such*
7258 *licensed premises;*
- 7259 *i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product*
7260 *except as provided under this subtitle;*
- 7261 *j. Is physically unable to carry on the business conducted under such license or has been adjudicated*
7262 *incapacitated;*
- 7263 *k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;*
- 7264 *l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly*
7265 *allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled*
7266 *substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms*
7267 *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*
7268 *Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to*
7269 *commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control*
7270 *Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed*
7271 *business that facilitates the commission of any of the offenses set forth herein;*
- 7272 *m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises*
7273 *immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of*
7274 *public property immediately adjacent to the licensed premises from becoming a place where patrons of the*
7275 *establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1*
7276 *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*
7277 *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*
7278 *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*
7279 *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*
7280 *that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;*
- 7281 *n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily*
7282 *injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately*
7283 *adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property*
7284 *immediately adjacent to the licensed premises; or*
- 7285 *o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated*
7286 *by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title*
7287 *54.1.*
- 7288 *2. The place occupied by the licensee:*

7289 a. Does not conform to the requirements of the governing body of the county, city, or town in which such
7290 establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar
7291 requirements established by the laws of the Commonwealth or by Board regulations;

7292 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

7293 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
7294 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly
7295 used or distributed. The Board may consider the general reputation in the community of such establishment in
7296 addition to any other competent evidence in making such determination.

7297 3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of
7298 the United States by prices charged or otherwise.

7299 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the
7300 facts been known.

7301 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties
7302 or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified
7303 by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding
7304 amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect
7305 to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same
7306 locality to settle the outstanding liability.

7307 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its
7308 agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed
7309 premises in the Commonwealth.

7310 7. Any other cause authorized by this subtitle.

7311 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

7312 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative
7313 Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has
7314 reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence
7315 of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed
7316 premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent
7317 to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that
7318 summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

7319 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct
7320 an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of
7321 violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention
7322 to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension
7323 shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board
7324 for a restricted license pending the results of the formal investigation and proceedings for disciplinary review.
7325 If the Board determines that a restricted license is warranted, the Board shall have discretion to impose
7326 appropriate restrictions based on the facts presented.

7327 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal
7328 investigation. The formal investigation shall be completed within 10 days of its commencement and the findings
7329 reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the
7330 Board determines that suspension of the license is warranted, a hearing shall be held within five days of the
7331 completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing.
7332 If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be
7333 vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and
7334 heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10
7335 days of the conclusion of the appeal hearing.

7336 D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of
7337 the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately
7338 upon service.

7339 *E. This section shall not apply to temporary permits granted under § 4.1-806.*

7340 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

7341 *The Board shall suspend or revoke any license if it finds that:*

7342 *1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a*
7343 *gambling device, upon the premises for which the Board has granted a retail marijuana store license.*

7344 *2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government*
7345 *or governmental agency or authority, by making or filing any report, document, or tax return required by statute*
7346 *or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has*
7347 *willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental*
7348 *agency or authority, by making or maintaining business records required by statute or regulation that are false*
7349 *or fraudulent.*

7350 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

7351 *A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or*
7352 *contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the*
7353 *Administrative Process Act (§ 2.2-4000 et seq.).*

7354 *Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit*
7355 *the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or*
7356 *copies thereof or the substance of any oral statements made by the licensee or a previous or present employee*
7357 *of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which*
7358 *the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee, and*
7359 *(ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof,*
7360 *that are within the possession, custody, or control of the Board and upon which the Board intends to rely as*
7361 *evidence in any adversarial proceeding under this subtitle against the licensee. In addition, any subpoena for*
7362 *the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-*
7363 *604 shall provide for the production of the documents sought within 10 working days, notwithstanding anything*
7364 *to the contrary in § 4.1-604.*

7365 *If the Board fails to provide for inspection or copying under this section for the licensee after a written*
7366 *request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully*
7367 *been entitled to inspect or copy under this section.*

7368 *The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be subject*
7369 *to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall*
7370 *extend to the entire evidential record of the proceedings provided by the Board in accordance with the*
7371 *Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.*
7372 *Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed*
7373 *or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction*
7374 *shall lie in any such case.*

7375 *B. In suspending any license the Board may impose, as a condition precedent to the removal of such*
7376 *suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in*
7377 *investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and*
7378 *collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding*
7379 *\$2,000 for the first violation occurring within five years immediately preceding the date of the violation or*
7380 *\$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the*
7381 *second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana*
7382 *products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing*
7383 *consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to*
7384 *exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation*
7385 *and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of*
7386 *the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may*
7387 *also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in*

7388 *investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension*
 7389 *or civil penalty incurred.*

7390 *C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his*
 7391 *license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent*
 7392 *agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a)*
 7393 *admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under*
 7394 *the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating*
 7395 *under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters,*
 7396 *(3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4)*
 7397 *proceed to a hearing.*

7398 *D. The Board shall, by regulation or written order:*

7399 *1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial*
 7400 *hearing;*

7401 *2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of*
 7402 *suspension may be accepted for a first offense occurring within three years immediately preceding the date of*
 7403 *the violation;*

7404 *3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty*
 7405 *for any retail marijuana store licensee where the licensee can demonstrate that it provided to its employees*
 7406 *marijuana seller training certified in advance by the Board;*

7407 *4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license*
 7408 *and the civil charge acceptable in lieu of such suspension; and*

7409 *5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee*
 7410 *has had no prior violations within five years immediately preceding the date of the violation. No waiver shall*
 7411 *be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board*
 7412 *regulations.*

7413 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products on**
 7414 **hand; termination.**

7415 *A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any licensee*
 7416 *at the time the license of such person is suspended or revoked may be disposed of as follows:*

7417 *1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana products*
 7418 *upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or*

7419 *2. Provided to the Virginia State Police to be destroyed.*

7420 *B. All retail marijuana or retail marijuana products owned by or in the possession of any person whose*
 7421 *license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this*
 7422 *section within 60 days from the date of such suspension or revocation.*

7423 *C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by persons*
 7424 *whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance*
 7425 *with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.*

7426 *D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any person*
 7427 *described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to*
 7428 *the Commonwealth in accordance with the provisions of § 4.1-1304.*

7429 **CHAPTER 10.**

7430 **ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.**

7431 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

7432 *A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an*
 7433 *application on forms provided by the Board and a statement in writing by the applicant swearing and affirming*
 7434 *that all of the information contained therein is true.*

7435 *Applicants for licenses for establishments that are otherwise required to obtain a food establishment permit*
 7436 *from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall*
 7437 *provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of*

7438 *a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof*
7439 *of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued*
7440 *to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall*
7441 *authorize the licensee to purchase retail marijuana or retail marijuana products in accordance with the*
7442 *provisions of this subtitle; however, the licensee shall not sell or serve retail marijuana or retail marijuana*
7443 *products until a permit is issued or an inspection is completed.*

7444 *B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of his*
7445 *application with the Board on the front door of the building, place, or room where he proposes to engage in*
7446 *such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain*
7447 *such information as required by the Board, including a statement that any objections shall be submitted to the*
7448 *Board not more than 30 days following initial posting of the notice required pursuant to this subsection.*

7449 *The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a*
7450 *newspaper published in or having a general circulation in the county, city, or town wherein such applicant*
7451 *proposes to engage in such business. Such notice shall contain such information as required by the Board,*
7452 *including a statement that any objections to the issuance of the license be submitted to the Board not later than*
7453 *30 days from the date of the initial newspaper publication.*

7454 *The Board shall conduct a background investigation, to include a criminal history records search, which*
7455 *may include a fingerprint-based national criminal history records search, on each applicant for a license.*
7456 *However, the Board may waive, for good cause shown, the requirement for a criminal history records search*
7457 *and completed personal data form for officers, directors, nonmanaging members, or limited partners of any*
7458 *applicant corporation, limited liability company, or limited partnership. In considering criminal history record*
7459 *information, the Board shall not disqualify an applicant because of a past conviction for a marijuana-related*
7460 *offense.*

7461 *The Board shall notify the local governing body of each license application through the town manager, city*
7462 *manager, county administrator, or other designee of the locality. Local governing bodies shall submit*
7463 *objections to the granting of a license within 30 days of the filing of the application.*

7464 *C. Each applicant shall pay the required application fee at the time the application is filed, except that such*
7465 *fee shall be waived or discounted for qualified social equity applicants pursuant to regulations promulgated by*
7466 *the Board. The license application fee shall be determined by the Board and shall be in addition to the actual*
7467 *cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal*
7468 *Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central*
7469 *Criminal Records Exchange for each criminal history records search required by the Board. Application fees*
7470 *shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.*

7471 *D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all*
7472 *licensees shall file and maintain with the Board a current, accurate record of the information required by the*
7473 *Board pursuant to subsection A and notify the Board of any changes to such information in accordance with*
7474 *Board regulations.*

7475 *E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the Board.*
7476 *Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as*
7477 *otherwise provided by law.*

7478 *The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for*
7479 *applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent and*
7480 *multiplied by the number of months for which the permit is granted.*

7481 *F. The Board shall have the authority to increase state license fees. The Board shall set the amount of such*
7482 *increases on the basis of the consumer price index and shall not increase fees more than once every three years.*
7483 *Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the*
7484 *general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for*
7485 *any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November*
7486 *1 in any year in which the Board has decided to increase state license fees, and such increases shall become*
7487 *effective July 1 of the following year.*

7488 **§ 4.1-1001. Fees for state licenses.**

7489 A. The annual fees on state licenses shall be determined by the Board.

7490 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal
7491 to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of
7492 months in the license period, and then increased by five percent. Such fee shall not be refundable, except as
7493 provided in § 4.1-1002.

7494 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant
7495 license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall be
7496 liable to state merchants' license taxation and other state taxation.

7497 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in
7498 person from the Board if such license is available for purchase online.

7499 **§ 4.1-1002. Refund of state license fee.**

7500 A. The Board may correct erroneous assessments made by it against any person and make refunds of any
7501 amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are subsequently
7502 refused or application therefor withdrawn, and to allow credit for any license fees paid by any licensee for any
7503 license that is subsequently merged or changed into another license during the same license period. No refund
7504 shall be made of any such amount, however, unless made within three years from the date of collection of the
7505 same.

7506 B. In any case where a licensee has changed its name or form of organization during a license period
7507 without any change being made in its ownership, and because of such change is required to pay an additional
7508 license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of
7509 the required license fee for such period.

7510 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state
7511 license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is
7512 destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural
7513 disaster or phenomenon.

7514 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys
7515 appropriated to the Board and in the manner prescribed in § 4.1-614.

7516 **§ 4.1-1003. Marijuana tax; exceptions.**

7517 A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana
7518 products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail
7519 marijuana products. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-600 et seq.) of
7520 Title 58.1 or any other provision of federal, state, or local law.

7521 B. The tax shall not apply to any sale:

7522 1. From a marijuana establishment to another marijuana establishment.

7523 2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et
7524 seq.) of the Drug Control Act.

7525 3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112
7526 et seq.) of Title 3.2.

7527 4. Of industrial hemp extract or food containing an industrial hemp extract under the provisions of Article
7528 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.

7529 C. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

7530 **§ 4.1-1004. Optional local marijuana tax.**

7531 A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax
7532 shall be in addition to any local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, any food
7533 and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise
7534 tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a
7535 locality shall not impose any other tax on a sale taxable under § 4.1-1003.

7536 B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section
7537 shall not apply within the limits of the town.

7538 *C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law*
 7539 *on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the*
 7540 *authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part*
 7541 *in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event flat fee authorized by*
 7542 *law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable*
 7543 *under § 4.1-1003 in its taxable measure.*

7544 *D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority*
 7545 *and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on*
 7546 *the first day of the second month following its enactment.*

7547 *E. Any tax levied under this section shall be administered and collected by the Authority in the same manner*
 7548 *as provided for the tax imposed under § 4.1-1003.*

7549 *F. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.*

7550 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

7551 *A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any taxes*
 7552 *due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall*
 7553 *not be liable for collecting or remitting the taxes or filing a return.*

7554 *B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or 4.1-1004*
 7555 *shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person*
 7556 *filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the*
 7557 *calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the*
 7558 *accrual of any interest or penalties under § 4.1-1008.*

7559 *C. The Authority may accept payment by any commercially acceptable means, including cash, checks,*
 7560 *credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this*
 7561 *subtitle. The Board may assess a service charge for the use of a credit or debit card.*

7562 *D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or*
 7563 *automated clearinghouse transfer information and use such information for future payments of taxes, interest,*
 7564 *or penalties due under this subtitle. The Authority may assess a service charge for any payments made under*
 7565 *this subsection. The Authority may procure the services of a third-party vendor for the secure storage of*
 7566 *information collected pursuant to this subsection.*

7567 *E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of goods or*
 7568 *quits the business, such person shall make a final return and payment within 15 days after the date of selling*
 7569 *or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase*
 7570 *money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner*
 7571 *produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or*
 7572 *interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided*
 7573 *in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid*
 7574 *on account of the operation of the business by any former owner.*

7575 *F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004, interest at*
 7576 *a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §§*
 7577 *4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.*

7578 **§ 4.1-1006. Bonds.**

7579 *The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the*
 7580 *taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such*
 7581 *surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become*
 7582 *due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the*
 7583 *State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the*
 7584 *State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order*
 7585 *to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above*
 7586 *the amounts due shall be returned to the person who deposited the securities.*

7587 **§ 4.1-1007. Refunds.**

7588 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003 or
7589 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed
7590 to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed
7591 voluntarily because the taxable items were defective and after notice to and approval by the Authority of such
7592 destruction; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,
7593 the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury
7594 to such extent as may be proper.

7595 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items
7596 that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify such
7597 facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be
7598 proper.

7599 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 or
7600 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of
7601 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax so
7602 refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller after such
7603 return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in
7604 submitting his return.

7605 **§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

7606 A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the date
7607 on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud
7608 the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the
7609 collection of such taxes may be begun without assessment, at any time within six years from such date. The
7610 Authority shall not examine any person's records beyond the three-year period of limitations unless it has
7611 reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a
7612 return and failed to do so.

7613 B. If any person fails to file a return as required by this section, or files a return that is false or fraudulent,
7614 the Authority may make an estimate for the taxable period of the taxable sales of such person and assess the
7615 tax, plus any applicable interest and penalties. The Authority shall give such person 10 days' notice requiring
7616 such person to provide any records as it may require relating to the business of such person for the taxable
7617 period. The Authority may require such person or the agents and employees of such person to give testimony
7618 or to answer interrogatories under oath administered by the Authority respecting taxable sales, the filing of the
7619 return, and any other relevant information. If any person fails to file a required return, refuses to provide
7620 required records, or refuses to answer interrogatories from the Authority, the Authority may make an estimated
7621 assessment based upon the information available to it and issue a memorandum of lien under subsection C for
7622 the collection of any taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

7623 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within
7624 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file
7625 a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of
7626 business is located or in which the person resides. If the person has no place of business or residence within
7627 the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A copy of the
7628 memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real
7629 estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment
7630 in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of
7631 Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on
7632 real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate
7633 is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice
7634 of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax,
7635 penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice,
7636 notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice
7637 shall be given to the person at his last known address.

7638 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal
7639 under § 4.1-1009.

7640 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
7641 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or
7642 paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the
7643 doors so padlocked. If after three business days, the tax deficiency has not been satisfied or satisfactory
7644 arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class
7645 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event
7646 that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person
7647 shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

7648 4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if
7649 the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition
7650 within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release
7651 of the lien within seven days after such determination is made.

7652 **§ 4.1-1009. Appeals.**

7653 Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action of the
7654 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to review
7655 under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential
7656 record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An
7657 appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the
7658 final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court
7659 pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

7660 **CHAPTER 11.**

7661 **POSSESSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS; PROHIBITED**
7662 **PRACTICES GENERALLY.**

7663 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older**
7664 **lawful; penalties.**

7665 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person
7666 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of
7667 marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the
7668 Board.

7669 B. Any person who possesses on his person or in any public place marijuana or marijuana products in
7670 excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. A violation of
7671 this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into the
7672 Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. The penalty for any
7673 violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2. Any
7674 violation of this section shall be charged by summons. A summons for a violation of this section may be executed
7675 by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-
7676 enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor
7677 vehicle law violations as prescribed pursuant to § 46.2-388.

7678 C. With the exception of a licensee in the course of his duties related to such licensee's marijuana
7679 establishment, any person who possesses on his person or in any public place more than five pounds of
7680 marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the
7681 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10
7682 years and a fine of not more than \$250,000, or both.

7683 D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-
7684 enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs
7685 trained in the detection of controlled substances when possession of marijuana is necessary for the performance
7686 of their duties.

7687 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

7688 A. A person 21 years of age or older may cultivate up to two mature marijuana plants and two immature
7689 marijuana plants for personal use at their place of residence; however, at no point shall a household contain
7690 more than two mature marijuana plants and two immature marijuana plants. For purposes of this section, a
7691 "household" means those individuals, whether related or not, who live in the same house or other place of
7692 residence.

7693 A person may only cultivate marijuana plants pursuant to this section at such person's main place of
7694 residence.

7695 B. A person who cultivates marijuana for personal use pursuant to this section shall:

7696 1. Ensure that the marijuana is not visible from a public way without the use of aircraft, binoculars, or
7697 other optical aids;

7698 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

7699 3. Attach to each mature marijuana plant and immature marijuana plant a legible tag that includes the
7700 person's name, driver's license or identification number, and a notation that the marijuana plant is being grown
7701 for personal use as authorized under this section.

7702 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of
7703 a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture
7704 marijuana concentrate from home-cultivated marijuana within or on that property or land.

7705 D. The following penalties or punishments shall be imposed on any person convicted of a violation of this
7706 section:

7707 1. For possession of more than two mature marijuana plants and two immature marijuana plants but no
7708 more than 10 total marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor
7709 for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

7710 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

7711 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

7712 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not
7713 less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

7714 **§ 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products; conspiracy;**
7715 **penalties.**

7716 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or manufacture
7717 marijuana or marijuana products in the Commonwealth without being licensed under this subtitle to cultivate
7718 or manufacture such marijuana or marijuana products.

7719 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

7720 C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or
7721 more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy
7722 is guilty of a Class 6 felony.

7723 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

7724 If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products except
7725 as permitted by this subtitle, he is guilty of a Class 2 misdemeanor.

7726 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

7727 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;**
7728 **penalties.**

7729 A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana
7730 products to any individual when at the time of such sale he knows or has reason to believe that the individual
7731 to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a
7732 violation of this subsection is guilty of a Class 1 misdemeanor.

7733 B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the intent to
7734 sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person who
7735 violates this subsection is guilty of a Class 1 misdemeanor.

7736 C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine, handbill, or
7737 other publication any advertisement, knowing or under circumstances where one reasonably should know, that

7738 *the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to*
7739 *persons younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1*
7740 *misdemeanor.*

7741 *D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an*
7742 *individual who is younger than 21 years of age and at the time of the sale does not require the individual to*
7743 *present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a*
7744 *violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably*
7745 *appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia,*
7746 *military identification card, United States passport or foreign government visa, unexpired special identification*
7747 *card issued by the Department of Motor Vehicles, or any other valid government-issued identification card*
7748 *bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph*
7749 *that reasonably appears to match the appearance of the purchaser. A student identification card shall not*
7750 *constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation*
7751 *of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board*
7752 *shall not take administrative action against a licensee for the conduct of his employee who violates this*
7753 *subsection.*

7754 *E. No person shall be convicted of both subsections A and D for the same sale.*

7755 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
7756 **exceptions; penalties; forfeiture; deferred proceedings; treatment and education programs and services.**

7757 *A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under § 4.1-*
7758 *1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or*
7759 *marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement*
7760 *officer or his agent when possession of marijuana or marijuana products is necessary in the performance of*
7761 *his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana*
7762 *products were possessed or consumed or in the county or city in which the person exhibits evidence of physical*
7763 *indicia of consumption of marijuana or marijuana products.*

7764 *B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more*
7765 *than \$250 for a first offense and shall be ordered to enter a substance abuse treatment or education program*
7766 *or both, if available, that in the opinion of the court best suits the needs of the accused. A person 18 years of*
7767 *age or older who is convicted under subsection A of a second offense is guilty of a Class 3 misdemeanor and of*
7768 *a third or subsequent offense is guilty of a Class 2 misdemeanor.*

7769 *When any person 18 years of age or older who has not previously violated subsection A or been convicted*
7770 *of consumption, purchase, or possession of marijuana or marijuana products in Virginia or any other state or*
7771 *the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found*
7772 *by the court would justify a finding of guilt of a violation of subsection A, shall, without entering a judgment of*
7773 *guilt, defer further proceedings and place the accused on probation subject to appropriate conditions. As a*
7774 *term and condition, the court shall require the accused to enter a substance abuse treatment or education*
7775 *program or both, if available, that in the opinion of the court best suits the needs of the accused. If the accused*
7776 *is placed on local community-based probation, the program or services shall be located in any of the judicial*
7777 *districts served by the local community-based probation services agency.*

7778 *Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise*
7779 *provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings*
7780 *against the person without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a*
7781 *conviction for the purpose of applying this section in any subsequent proceedings.*

7782 *C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$200 for a first*
7783 *offense and the court shall require the accused to enter a substance abuse treatment or education program or*
7784 *both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-*
7785 *273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.*

7786 For a second and any subsequent violation of subsection A, such juvenile is guilty of a Class 3 misdemeanor,
7787 and the court shall require the accused to enter a substance abuse treatment or education program or both, if
7788 available, that in the opinion of the court best suits the needs of the accused.

7789 D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this
7790 section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental
7791 Services or (ii) a program or services made available through a community-based probation services agency
7792 established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for
7793 the locality. When an offender is ordered to a local community-based probation services agency, the local
7794 community-based probation services agency shall be responsible for providing for services or referring the
7795 offender to education or treatment services as a condition of probation.

7796 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
7797 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of
7798 age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor
7799 vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate
7800 or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3
7801 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student
7802 identification card of another person in order to establish a false identification or false age for himself to
7803 consume, purchase, or attempt to consume or purchase retail marijuana or retail marijuana products. Any
7804 person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

7805 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed
7806 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

7807 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local
7808 law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from
7809 an administrative penalty for a violation of § 4.1-1104.

7810 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may not be**
7811 **sold; penalties; forfeiture.**

7812 A. Any person who purchases retail marijuana or retail marijuana products for another person and at the
7813 time of such purchase knows or has reason to believe that the person for whom the retail marijuana or retail
7814 marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

7815 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
7816 marijuana or retail marijuana products to, another person when he knows or has reason to know that such
7817 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when
7818 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class
7819 1 misdemeanor.

7820 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed contraband
7821 and forfeited to the Commonwealth in accordance with § 4.1-1304.

7822 **§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle being driven**
7823 **upon a public highway; penalty.**

7824 A. For the purposes of this section:

7825 "Open container" means any vessel containing marijuana or marijuana products, except the originally
7826 sealed manufacturer's container.

7827 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the
7828 reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers.

7829 "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of
7830 a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a
7831 motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the
7832 transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the
7833 transportation of such persons.

7834 *B. It is unlawful for any person to use or consume marijuana or marijuana products while driving a motor*
7835 *vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven*
7836 *upon a public highway of the Commonwealth.*

7837 *C. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana*
7838 *products in violation of this section if (i) an open container is located within the passenger area of the motor*
7839 *vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed*
7840 *and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is*
7841 *consistent with the consumption of marijuana or marijuana products. Such person may be prosecuted either in*
7842 *the county or city in which the marijuana was used or consumed, or in the county or city in which the person*
7843 *exhibits evidence of physical indicia of use or consumption of marijuana.*

7844 *D. Any person who violates this section is guilty of a Class 1 misdemeanor.*

7845 **§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public place;**
7846 **penalty.**

7847 *If any person consumes marijuana or a marijuana product or offers marijuana or a marijuana product to*
7848 *another, whether accepted or not, at or in any public place, such person is guilty of a Class 4 misdemeanor.*

7849 **§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school grounds;**
7850 **penalty.**

7851 *A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any*
7852 *public elementary or secondary school during school hours or school or student activities.*

7853 *B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana*
7854 *products in or upon the grounds of any public elementary or secondary school after school hours or school or*
7855 *student activities.*

7856 *C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.*

7857 **§ 4.1-1110. Possessing or consuming marijuana or marijuana products while operating a school bus;**
7858 **penalty.**

7859 *Any person who possesses or consumes marijuana or marijuana products while operating a school bus and*
7860 *transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the*
7861 *same meaning as provided in § 46.2-100.*

7862 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana products;**
7863 **penalty; exception.**

7864 *A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the*
7865 *Commonwealth.*

7866 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

7867 **§ 4.1-1112. Limitation on carrying retail marijuana or retail marijuana products in motor vehicle**
7868 **transporting passengers for hire; penalty.**

7869 *The transportation of retail marijuana or retail marijuana products in any motor vehicle that is being used,*
7870 *or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession*
7871 *of a passenger who is being transported for compensation at the regular rate and fare charged other*
7872 *passengers.*

7873 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

7874 **§ 4.1-1113. Maintaining common nuisances; penalties.**

7875 *A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every*
7876 *description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given away, or*
7877 *used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.*

7878 *No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common nuisance.*

7879 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

7880 *B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not involved*
7881 *in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305 and upon proof*
7882 *of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or*
7883 *any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of not*

7884 less than \$500 and with security to be approved by the court, conditioned that the premises shall not be used
7885 for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the same
7886 over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1305.

7887 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or lienholder
7888 of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had the right,
7889 because of such unlawful use, to enter and repossess the property.

7890 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

7891 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
7892 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its original
7893 status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement
7894 officer into such structure; (ii) being used for the purpose of illegally manufacturing or distributing marijuana;
7895 and (iii) the object of a valid search warrant shall be considered a fortified drug house. Any person who
7896 maintains or operates a fortified drug house is guilty of a Class 5 felony.

7897 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

7898 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any
7899 agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any
7900 hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold
7901 and conduct such hearing.

7902 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7903 **§ 4.1-1116. Illegal advertising; penalty; exception.**

7904 A. Except in accordance with this subtitle and Board regulations, no person shall advertise in or send any
7905 advertising matter into the Commonwealth about or concerning marijuana other than such that may legally be
7906 manufactured or sold without a license.

7907 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana
7908 wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail
7909 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is
7910 done in accordance with § 4.1-1405 and Board regulations.

7911 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of a Class
7912 1 misdemeanor.

7913 D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the
7914 Board shall give the advertiser written notice to take corrective action to either bring the advertisement into
7915 compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not
7916 taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

7917 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

7918 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional
7919 facility or any person committed to the Department of Juvenile Justice in any juvenile correctional center any
7920 marijuana or marijuana products.

7921 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7922 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

7923 A. No person shall separate plant resin by butane extraction or another method that utilizes a substance
7924 with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of
7925 any residential structure.

7926 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7927 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

7928 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in doing,
7929 or attempting to do, any of the things prohibited by this subtitle.

7930 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find
7931 the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the
7932 defendant were solely guilty of such violation.

7933 **§ 4.1-1120. Persons charged with first offense may be placed on probation; conditions; substance abuse**
 7934 **screening, assessment treatment, and education programs or services; drug tests; costs and fees; violations;**
 7935 **discharge.**

7936 A. Except as provided in § 4.1-1105, whenever any person who has not previously been convicted of any
 7937 offense under this subtitle pleads guilty to or enters a plea of not guilty to an offense under this subtitle, the
 7938 court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment
 7939 of guilt and with the consent of the accused, may defer further proceedings and place the accused on probation
 7940 upon terms and conditions.

7941 B. As a term or condition, the court shall require the accused to undergo a substance abuse assessment
 7942 pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination thereof,
 7943 if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon
 7944 consideration of the substance abuse assessment. The program or services may be located in the judicial district
 7945 in which the charge is brought or in any other judicial district as the court may provide. The services shall be
 7946 provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, or a
 7947 similar program that is made available through the Department of Corrections; (ii) a local community-based
 7948 probation services agency established pursuant to § 9.1-174; or (iii) an alcohol safety action program (ASAP)
 7949 certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP).

7950 C. The court shall require the person entering such program under the provisions of this section to pay all
 7951 or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,
 7952 based upon the accused's ability to pay, unless the person is determined by the court to be indigent.

7953 D. As a condition of probation, the court shall require the accused (i) to successfully complete treatment
 7954 or education programs or services, (ii) to remain drug-free and alcohol-free during the period of probation
 7955 and submit to such tests during that period as may be necessary and appropriate to determine if the accused is
 7956 drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to
 7957 comply with a plan of up to 24 hours of community service. Such testing shall be conducted by personnel of the
 7958 supervising probation agency or personnel of any program or agency approved by the supervising probation
 7959 agency.

7960 E. The court shall, unless done at arrest, order the accused to report to the original arresting law-
 7961 enforcement agency to submit to fingerprinting.

7962 F. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
 7963 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and
 7964 dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication
 7965 of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

7966 G. When any juvenile is found to have committed a violation of subsection A, the disposition of the case
 7967 shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

7968 CHAPTER 12.

7969 PROHIBITED PRACTICES BY LICENSEES.

7970 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

7971 A. No licensee or any agent or employee of such licensee shall:

7972 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of a
 7973 kind other than that which such license or this subtitle authorizes him to cultivate, manufacture, transport, sell,
 7974 or test;

7975 2. Sell retail marijuana or retail marijuana products of a kind that such license or this subtitle authorizes
 7976 him to sell, but to any person other than to those to whom such license or this subtitle authorizes him to sell;

7977 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that such
 7978 license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this
 7979 subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

7980 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products when
 7981 forbidden by this subtitle;

7982 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana or
7983 retail marijuana products other than that which he is authorized to cultivate, manufacture, transport, sell, or
7984 transport by such license or by this subtitle;

7985 6. Sell any retail marijuana or retail marijuana products to a retail marijuana store licensee, except for
7986 cash, if the seller holds a marijuana cultivation facility, marijuana manufacturing facility, or marijuana
7987 wholesaler license;

7988 7. Keep any retail marijuana or retail marijuana product other than in the container in which it was
7989 purchased by him; or

7990 8. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at a retail
7991 marijuana store.

7992 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7993 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

7994 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee
7995 shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved
7996 in the selling of retail marijuana or retail marijuana products to consumers.

7997 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or
7998 marijuana products.

7999 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to
8000 exceed \$500.

8001 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a**
8002 **license; penalty.**

8003 No retail marijuana store licensee shall purchase for resale or sell any retail marijuana or retail marijuana
8004 products purchased from anyone other than a marijuana wholesaler licensee.

8005 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8006 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by licensees; penalty.**

8007 A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products from
8008 one licensed place of business to another licensed place of business, whether or not such places of business are
8009 under the same ownership.

8010 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8011 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

8012 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any licensee
8013 selling, renting, lending, buying for, or giving to any person any advertising materials or decorations under
8014 circumstances prohibited by this subtitle or Board regulations.

8015 Any person found by the Board to have violated this section shall be subject to a civil penalty as authorized
8016 in § 4.1-903.

8017 **§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of marijuana or marijuana products;**
8018 **penalty.**

8019 A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of retail
8020 marijuana or retail marijuana products shall, without a permit granted by the Board and upon such conditions
8021 as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store licensee; (ii) any
8022 agent or employee of such licensee; or (iii) any person connected with the licensee in any capacity whatsoever
8023 in his licensed business to sell or offer for sale the retail marijuana or retail marijuana products in which such
8024 person may be so interested.

8025 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale
8026 of the retail marijuana or retail marijuana products that were the subject matter of the unlawful solicitation or
8027 promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana or retail marijuana
8028 products manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the
8029 owner of the brand unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed
8030 \$250,000 in lieu of such suspension or termination of sales, or both.

8031 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

8032 *B. No retail marijuana store licensee or any agent or employee of such licensee, or any person connected*
 8033 *with the licensee in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a*
 8034 *party to, consent to, solicit, or aid or abet another in a violation of subsection A.*

8035 *The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty not to*
 8036 *exceed \$25,000 in lieu of such suspension or any portion thereof, or both.*

8037 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

8038 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to**
 8039 **allow examination and inspection; penalty.**

8040 *A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii) deliver,*
 8041 *keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or*
 8042 *(iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in*
 8043 *accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1*
 8044 *misdemeanor.*

8045 *B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may*
 8046 *suspend or revoke any license of such licensee that was issued by the Authority.*

8047 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

8048 *A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable taxes*
 8049 *due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive, transport,*
 8050 *store, or sell any retail marijuana or retail marijuana products on which such retailer has reason to know such*
 8051 *tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a*
 8052 *Class 1 misdemeanor.*

8053 *B. On any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004, there shall*
 8054 *be imposed a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure*
 8055 *is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof,*
 8056 *during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.*

8057 *C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of*
 8058 *any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the*
 8059 *proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B.*
 8060 *It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its*
 8061 *taxable sales to the Authority at 50 percent or less of the actual amount.*

8062 *D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not paid by the*
 8063 *bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due*
 8064 *within five days after the Authority gives it notice that such check was returned unpaid, the person by which*
 8065 *such check was tendered is guilty of a violation of § 18.2-182.1.*

8066 *E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner*
 8067 *as if they were a part of the tax imposed.*

CHAPTER 13.

PROHIBITED PRACTICES; PROCEDURAL MATTERS.

8070 **§ 4.1-1300. Enjoining nuisances.**

8071 *A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the*
 8072 *Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113*
 8073 *exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.*

8074 *B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge*
 8075 *or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products*
 8076 *are cultivated, manufactured, stored, sold, dispensed, given away, or used in such house, building, or other*
 8077 *place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as*
 8078 *soon as the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and*
 8079 *their agents and employees, and any person connected with such house, building, or other place, and all persons*
 8080 *whomsoever from cultivating, manufacturing, storing, selling, dispensing, giving away, or using marijuana or*
 8081 *marijuana products on such premises. The injunction shall also restrain all persons from removing any*

8082 marijuana or marijuana products then on such premises until the further order of the court. If the court is
8083 satisfied that the material allegations of the bill are true, although the premises complained of may not then be
8084 unlawfully used, it shall continue the injunction against such place for a period of time as the court deems
8085 proper. The injunction may be dissolved if a proper case is shown for dissolution.

8086 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

8087 A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana products, all
8088 marijuana or marijuana products and materials used in their manufacture, all containers in which marijuana
8089 or marijuana products may be found, that are kept, stored, possessed, or in any manner used in violation of the
8090 provisions of this subtitle, and any dangerous weapons as described in § 18.2-308 that may be used or that may
8091 be found upon the person, or in any vehicle that such person is using, to aid such person in the unlawful
8092 cultivation, manufacture, transportation, or sale of marijuana or marijuana products, or found in the possession
8093 of such person, or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any
8094 nature whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products
8095 are being unlawfully manufactured and where such animal or vehicle is being used to aid in the unlawful
8096 manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

8097 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1304
8098 for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1 (§
8099 19.2-386.1 et seq.) of Title 19.2.

8100 **§ 4.1-1302. Search without warrant; odor of marijuana.**

8101 A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person,
8102 place, or thing solely on the basis of the odor of marijuana and no evidence discovered or obtained pursuant
8103 to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be
8104 admissible in any trial, hearing, or other proceeding.

8105 B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation
8106 occurs in a commercial motor vehicle as defined in § 46.2-341.4.

8107 **§ 4.1-1303. Search warrants.**

8108 A. If complaint on oath is made that marijuana or marijuana products are being cultivated, manufactured,
8109 sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other place, in violation
8110 of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such
8111 complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search
8112 such house or other place for marijuana or marijuana products. Such warrants, except as herein otherwise
8113 provided, shall be issued, directed, and executed in accordance with the laws of the Commonwealth pertaining
8114 to search warrants.

8115 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or vehicle,
8116 whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for marijuana
8117 or marijuana products may be executed in any part of the Commonwealth where they are overtaken and shall
8118 be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle,
8119 truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

8120 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

8121 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited
8122 to the Commonwealth under this subtitle shall be as provided in this section.

8123 B. Production of seized property. Whenever any article declared contraband under the provisions of this
8124 subtitle and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any
8125 officer charged with the enforcement of this subtitle, he shall produce the contraband article and any person in
8126 whose possession it was found. In those cases where no person is found in possession of such articles, the return
8127 shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles
8128 were found, or if there is no door, then in any conspicuous place upon the premises.

8129 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove
8130 such item to a place of safe storage from the place where seized, the seizing officer may destroy such item only
8131 as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least one

8132 *credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be*
8133 *made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and*
8134 *destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining after such*
8135 *destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer*
8136 *and witness have no doubt whatever that the item was set up for use, or had been used in the unlawful cultivation*
8137 *or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.*

8138 *In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture*
8139 *of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of*
8140 *unlawful cultivation or manufacture of marijuana or marijuana products or any other violation of this subtitle.*
8141 *The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer*
8142 *in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds*
8143 *of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their*
8144 *own knowledge, the seizing officer and witness have no doubt whatever that the marijuana or marijuana*
8145 *products were intended for use in the unlawful cultivation or manufacture of marijuana or marijuana products*
8146 *or were intended for use in violation of this subtitle.*

8147 *C. Hearing and determination. Upon the return of the warrant as provided in this section, the court shall*
8148 *fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days thereafter,*
8149 *for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used*
8150 *or in any manner kept, stored, or possessed in violation of this subtitle.*

8151 *At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the*
8152 *Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them*
8153 *over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and*
8154 *file a written claim setting forth particularly the character and extent of his interest. The court shall certify the*
8155 *warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity*
8156 *of such claim.*

8157 *If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be*
8158 *turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a*
8159 *bar to any prosecution under any other provision of this subtitle.*

8160 *D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to the*
8161 *Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net*
8162 *proceeds from such sales shall be paid into the Literary Fund.*

8163 *If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in*
8164 *accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale would be*
8165 *impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the*
8166 *local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made*
8167 *showing the nature of the foodstuffs and amount given, to whom given, and the date when given, and shall be*
8168 *kept in the offices of the Board.*

8169 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

8170 *A. When any officer charged with the enforcement of the cannabis control laws of the Commonwealth has*
8171 *reason to believe that retail marijuana or retail marijuana products illegally acquired, or being illegally*
8172 *transported, are in any conveyance or vehicle of any kind, either on land or on water, except a conveyance or*
8173 *vehicle owned or operated by a railroad, express, sleeping, or parlor car, or steamboat company, other than*
8174 *barges, tugs, or small craft, he shall obtain a search warrant and search such conveyance or vehicle. If illegally*
8175 *acquired retail marijuana or retail marijuana products or retail marijuana or retail marijuana products being*
8176 *illegally transported in amounts in excess of two and one-half ounces of retail marijuana, 16 ounces of solid*
8177 *retail marijuana product, or 72 ounces of liquid retail marijuana product, the officer shall seize the retail*
8178 *marijuana or retail marijuana product, seize and take possession of such conveyance or vehicle, and deliver*
8179 *them to the chief law-enforcement officer of the locality in which such seizure was made, taking his receipt*
8180 *therefor in duplicate.*

8181 *B. The officer making such seizure shall also arrest all persons found in charge of such conveyance or*
 8182 *vehicle and shall forthwith report in writing such seizure and arrest to the attorney for the Commonwealth for*
 8183 *the county or city in which seizure and arrest were made.*

8184 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

8185 *Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband*
 8186 *and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of*
 8187 *permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products*
 8188 *within the Commonwealth when other Board regulations applicable to such transportation have been complied*
 8189 *with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.*

8190 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

8191 *A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to*
 8192 *the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating*
 8193 *any Board regulation is guilty of a Class 1 misdemeanor.*

8194 *B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is*
 8195 *convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon*
 8196 *his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the*
 8197 *defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is*
 8198 *required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by*
 8199 *the court, provided that he shall not be confined for a period longer than six months. If any such bond required*
 8200 *by a court is not given during the term of the court by which conviction is had, it may be given before any judge*
 8201 *or before the clerk of such court.*

8202 *C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to*
 8203 *continue the license of any person convicted of a violation of any provision of this subtitle.*

8204 *D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant*
 8205 *has been notified that such a case is pending.*

8206 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

8207 *No person shall be excused from testifying for the Commonwealth as to any offense committed by another*
 8208 *under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person*
 8209 *on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him, and*
 8210 *he shall not be prosecuted for the offense to which he testifies.*

8211 **§ 4.1-1309. Previous convictions.**

8212 *In any indictment, information, or warrant charging any person with a violation of any provision of this*
 8213 *subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person*
 8214 *has been previously convicted of a violation of this subtitle.*

8215 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

8216 *The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the*
 8217 *Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for violations of this*
 8218 *subtitle and all controversies in any judicial proceedings touching the mixture analyzed by him. On motion of*
 8219 *the accused or any party in interest, the court may require the forensic scientist making the analysis to appear*
 8220 *as a witness and be subject to cross-examination, provided that such motion is made within a reasonable time*
 8221 *prior to the day on which the case is set for trial.*

8222 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

8223 *In any prosecution for violations of this subtitle, where a sealed container is labeled as containing retail*
 8224 *marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana content*
 8225 *of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana*
 8226 *content of a container, whether sealed or not.*

8227 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

8228 *No action to recover the price of any retail marijuana or retail marijuana products sold in contravention*
 8229 *of this subtitle may be maintained.*

8230

CANNABIS CONTROL; TESTING; ADVERTISING.

8231 § 4.1-1400. Board to establish regulations for marijuana testing.

8232 The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise
8233 provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or
8234 distributing retail marijuana or a retail marijuana product to a consumer or to another licensee, to submit a
8235 representative sample of the retail marijuana or retail marijuana product, not to exceed 10 percent of the total
8236 harvest or batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana or retail
8237 marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is
8238 injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt
8239 regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable testing and
8240 research practices, including regulations relating to testing practices, methods, and standards; quality control
8241 analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and
8242 business practices; disposal of used, unused, and waste retail marijuana and retail marijuana products; and
8243 reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which retail
8244 marijuana and retail marijuana products shall be tested under this subtitle; and (iv) establishing the maximum
8245 level of allowable contamination for each contaminant.

**8246 § 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required;
8247 required destruction; random testing.**

8248 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer or to
8249 another licensee under this subtitle unless a representative sample of the retail marijuana or retail marijuana
8250 product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that
8251 mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product does not exceed
8252 the maximum level of allowable contamination for any contaminant that is injurious to health and for which
8253 testing is required and (ii) the labeling on the retail marijuana or retail marijuana product is correct.

8254 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall include
8255 testing for:

- 8256** 1. Residual solvents, poisons, and toxins;
- 8257** 2. Harmful chemicals;
- 8258** 3. Dangerous molds and mildew;
- 8259** 4. Harmful microbes, including but not limited to *Escherichia coli* and *Salmonella*;
- 8260** 5. Pesticides, fungicides, and insecticides; and
- 8261** 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct
8262 labeling.

8263 Testing shall be performed on the final form in which the retail marijuana or retail marijuana product will
8264 be consumed.

8265 C. A licensee shall maintain a record of all mandatory testing that includes a description of the retail
8266 marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the marijuana
8267 testing facility, and the results of the mandatory test.

8268 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
8269 marijuana or retail marijuana product exceeds the maximum level of allowable contamination for any
8270 contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall
8271 immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product and
8272 within 30 days of completing the test shall notify the Board of the test results.

8273 A marijuana testing facility is not required to notify the Board of the results of any test:

8274 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant to
8275 this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of
8276 allowable contamination for any contaminant that is injurious to health and for which testing is required;

8277 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for research
8278 and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the
8279 performance of the test that the testing is for research and development purposes only; or
8280

8281 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is not a
8282 licensee.

8283 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee retail
8284 marijuana or a retail marijuana product that the licensee has not submitted for testing in accordance with this
8285 subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

8286 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance with
8287 this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and that testing
8288 demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum level of
8289 allowable contamination for any contaminant that is injurious to health and for which testing is required;

8290 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana product
8291 are documented in accordance with the requirements of this subtitle and all applicable regulations adopted
8292 pursuant to this subtitle;

8293 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the retail
8294 marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product to
8295 another licensee or to a consumer can be easily identified; and

8296 4. The retail marijuana or retail marijuana product has not undergone any further processing,
8297 manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

8298 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
8299 marijuana products whose testing samples indicate noncompliance with the health and safety standards
8300 required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial
8301 measures can bring the retail marijuana or retail marijuana products into compliance with such required health
8302 and safety standards.

8303 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana products
8304 for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

8305 **§ 4.1-1402. Labeling and packaging requirements; prohibitions.**

8306 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer
8307 in accordance with the provisions of this subtitle shall be labeled with the following information:

8308 1. Identification of the type of marijuana or marijuana product and the date of cultivation, manufacturing,
8309 and packaging;

8310 2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility, and the
8311 retail marijuana store where the retail marijuana or retail marijuana product was cultivated, manufactured,
8312 and offered for sale, as applicable;

8313 3. A statement of the net weight of the retail marijuana or retail marijuana product;

8314 4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol
8315 (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount in
8316 milligrams per serving, the total servings per package, and the THC and other cannabinoid amount in
8317 milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;

8318 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

8319 6. Instructions on usage;

8320 7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a recommended
8321 use by date or expiration date;

8322 8. For edible retail marijuana products, a nutritional fact panel;

8323 9. The following statements, prominently displayed in bold print and in a clear and legible fashion:

8324 a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA.
8325 MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF
8326 CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE
8327 AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR
8328 BREASTFEEDING. PLEASE USE CAUTION."

8329 b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
8330 MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF

8331 REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY
8332 TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT
8333 OR BREASTFEEDING. PLEASE USE CAUTION.";

8334 10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail marijuana
8335 products; and

8336 11. Any other information required by Board regulations.

8337 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer
8338 in accordance with the provisions of this subtitle shall be packaged in the following manner:

8339 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-evident,
8340 and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-
8341 resistant, tamper-evident, and resealable packaging that is opaque;

8342 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
8343 component; and

8344 3. Packaging shall comply with any other requirements imposed by Board regulations.

8345 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer
8346 in accordance with the provisions of this subtitle shall not:

8347 1. Be labeled or packaged in violation of a federal trademark law or regulation;

8348 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

8349 3. Be labeled or packaged in a manner that obscures identifying information on the label;

8350 4. Be labeled or packaged using a false or misleading label;

8351 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle, or
8352 fruit; and

8353 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board
8354 regulations.

8355 **§ 4.1-1403. Other health and safety requirements for edible retail marijuana products and other retail**
8356 **marijuana products deemed applicable by the Authority; health and safety regulations.**

8357 A. Requirements and restrictions for edible retail marijuana products and other retail marijuana products
8358 deemed applicable by the Authority. In addition to all other applicable provisions of this subtitle, edible retail
8359 marijuana products and other retail marijuana products deemed applicable by the Authority to be sold or
8360 offered for sale by a licensee to a consumer in accordance with this subtitle:

8361 1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

8362 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

8363 3. Shall be manufactured in a manner that results in the cannabinoid content within the product being
8364 homogeneous throughout the product or throughout each element of the product that has a cannabinoid
8365 content;

8366 4. Shall be manufactured in a manner that results in the amount of marijuana concentrate within the product
8367 being homogeneous throughout the product or throughout each element of the product that contains marijuana
8368 concentrate;

8369 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

8370 6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the product
8371 and shall not contain more than 50 milligrams of THC per package of the product;

8372 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed to
8373 make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v) are
8374 specifically designed to make the product appeal particularly to persons younger than 21 years of age; and

8375 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the
8376 trademarked product is used as a component of or ingredient in the edible retail marijuana product and the
8377 edible retail marijuana product is not advertised or described for sale as containing the trademarked product.

8378 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other health
8379 and safety regulations that it deems necessary for retail marijuana and retail marijuana products to be sold or
8380 offered for sale by a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to

8381 *this subsection shall establish mandatory health and safety standards applicable to the cultivation of retail*
 8382 *marijuana, the manufacture of retail marijuana products, and the packaging and labeling of retail marijuana*
 8383 *and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:*

8384 *1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail marijuana*
 8385 *products by licensees;*

8386 *2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture of*
 8387 *retail marijuana and retail marijuana products; and*

8388 *3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana stores.*

8389 **§ 4.1-1404. Advertising and marketing restrictions.**

8390 *A. As used in this section, unless the context requires a different meaning, "health-related statement" means*
 8391 *any statement related to health and includes statements of a curative or therapeutic nature that, expressly or*
 8392 *by implication, suggest a relationship between the consumption of retail marijuana or retail marijuana products*
 8393 *and health benefits or effects on health.*

8394 *B. No person shall advertise in or send any advertising matter into the Commonwealth about or concerning*
 8395 *retail marijuana or retail marijuana products other than those that may be legally manufactured in the*
 8396 *Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.*

8397 *C. A licensee shall not advertise through any means unless at least 85 percent of the audience is reasonably*
 8398 *expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.*

8399 *D. A licensee shall not engage in the use of pop-up digital advertisements but may list their establishment*
 8400 *in public phone books and directories.*

8401 *E. A licensee shall not display any marijuana or marijuana product pricing through any means of*
 8402 *advertisement other than their establishment website, which shall be registered with the Authority, or an opt-*
 8403 *in subscription-based service, provided that the licensee utilizes proper age verification techniques to confirm*
 8404 *that the person attempting to access the website or sign up for a subscription-based service is 21 years of age*
 8405 *or older.*

8406 *F. Advertising or marketing used by or on behalf of a licensee:*

8407 *1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a minimum, the*
 8408 *licensee's license number, and shall include the following statement: "For use by adults 21 years of age and*
 8409 *older";*

8410 *2. Shall not be misleading, deceptive, or false;*

8411 *3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in*
 8412 *any way; and*

8413 *4. Shall comply with any other provisions imposed by Board regulations.*

8414 *G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by*
 8415 *the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older*
 8416 *before engaging in that communication or dialogue controlled by the licensee. For the purposes of this*
 8417 *subsection, that method of age affirmation may include user confirmation, birth date disclosure, or any other*
 8418 *similar registration method.*

8419 *H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or any*
 8420 *marijuana accessories, as part of a business promotion or other commercial activity.*

8421 *I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish*
 8422 *or disseminate advertising or marketing containing any health-related statement that is untrue in any particular*
 8423 *manner or tends to create a misleading impression as to the effects on health of marijuana consumption.*

8424 *J. The provisions of this section shall not apply to noncommercial speech.*

8425 **§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

8426 *A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000 linear*
 8427 *feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face*
 8428 *upon which the advertisement is placed to the nearest edge of a building or structure located on the real*
 8429 *property of (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private*
 8430 *playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility.*

8431 *B. However, (i) if there is no building or structure on a playground or similar recreational or child-centered*
 8432 *facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed*
 8433 *to the property line of such playground or similar recreational or child-centered facility and (ii) if a public,*
 8434 *private, or parochial school providing grades kindergarten through 12 education is located across the road*
 8435 *from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is*
 8436 *placed to the nearest edge of a building or structure located on such real property across the road.*

8437 *C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from (i) a*
 8438 *public, private, or parochial school or an institution of higher education; (ii) a public or private playground or*
 8439 *similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility, but the*
 8440 *circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall*
 8441 *permit the advertisement to remain as displayed for the remainder of the term of any written advertising*
 8442 *contract, but in no event more than one year from the date of the change in circumstances.*

8443 *D. Provided that such signs are in compliance with local ordinances, the distance and zoning restrictions*
 8444 *contained in this section shall not apply to:*

8445 *1. Signs placed by licensees upon the property on which the licensed premises are located so long as such*
 8446 *signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-discharge tubes*
 8447 *that contain rarefied neon or other gases; or*

8448 *2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler*
 8449 *licensees with advertising limited to trade names and brand names.*

8450 *E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included*
 8451 *in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its*
 8452 *agents.*

8453 *F. A marijuana licensee shall not use any billboard advertisements or advertise at any sporting event in the*
 8454 *Commonwealth.*

8455 *G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with the*
 8456 *provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations*
 8457 *adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor retail marijuana*
 8458 *products directional sign located or to be located on highway rights of way shall also be governed by and*
 8459 *comply with the Integrated Directional Sign Program administered by the Virginia Department of*
 8460 *Transportation or its agents.*

8461 CHAPTER 15.

8462 VIRGINIA CANNABIS EQUITY BUSINESS LOAN PROGRAM AND FUND.

8463 § 4.1-1500. Definitions.

8464 *As used in this chapter, unless the context requires a different meaning:*

8465 *"CDFI" means a community development financial institution that provides credit and financial services*
 8466 *for underserved communities.*

8467 *"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.*

8468 *"Funding" means loans made from the Fund.*

8469 *"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.*

8470 *"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606*
 8471 *to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined*
 8472 *by the Board, a license to operate a cannabis business under § 4.1-606.*

8473 § 4.1-1501. Virginia Cannabis Equity Business Loan Fund.

8474 *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia*
 8475 *Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established*
 8476 *on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,*
 8477 *bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.*
 8478 *Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining*
 8479 *in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but*
 8480 *shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing low-interest*

8481 *and zero-interest loans to social equity qualified cannabis licensees in order to foster business ownership and*
 8482 *economic growth within communities that have been the most disproportionately impacted by the former*
 8483 *prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer*
 8484 *on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the*
 8485 *Authority.*

8486 **§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the Fund.**

8487 *A. The Authority shall establish a Program to provide loans to qualified social equity cannabis licensees*
 8488 *for the purpose of promoting business ownership and economic growth by communities that have been*
 8489 *disproportionately impacted by the prohibition of cannabis. The Authority shall select and work in*
 8490 *collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the Fund.*
 8491 *The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience in business*
 8492 *lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the capability to*
 8493 *dedicate sufficient staff to manage the Program. Working with the selected CDFI, the Authority shall establish*
 8494 *monitoring and accountability mechanisms for businesses receiving funding and shall report annually the*
 8495 *number of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the*
 8496 *outcomes, including the number and types of jobs created.*

8497 *B. The Program shall:*

- 8498 *1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of a cannabis*
- 8499 *business properly licensed pursuant to the provisions of this subtitle;*
- 8500 *2. Provide loans for the purposes described in subsection A;*
- 8501 *3. Provide technical assistance; and*
- 8502 *4. Bring together community partners to sustain the Program.*

8503 **§ 4.1-1503. Annual reports.**

8504 *On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety and*
 8505 *Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen of the*
 8506 *House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other*
 8507 *matters regarding the Fund as the Authority may deem appropriate, including the amount of funding committed*
 8508 *to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such*
 8509 *report is to be submitted.*

8510 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or marijuana;**
 8511 **reckless operation.**

8512 *Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of*
 8513 *this Commonwealth, while under the influence of intoxicating liquor or of any narcotic or marijuana or any*
 8514 *habit-forming drugs shall be is guilty of a felony and shall be confined in a state correctional facility not less*
 8515 *than one nor more than five years, or, in the discretion of the court or jury trying the case, be confined in jail*
 8516 *not exceeding twelve 12 months and fined not exceeding \$500, or both such fine and imprisonment.*

8517 *Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of*
 8518 *this Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety of others, or*
 8519 *without due caution and circumspection and in a manner so as to endanger any person or property, shall be is*
 8520 *guilty of a misdemeanor.*

8521 **§ 6.2-107.1. Financial services for licensed marijuana establishments.**

8522 *A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided*
 8523 *in § 4.1-600.*

8524 *B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the*
 8525 *officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state*
 8526 *law or regulation solely for providing such a financial service or for further investing any income derived from*
 8527 *such a financial service.*

8528 *C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed*
 8529 *marijuana establishment.*

8530 **§ 9.1-101. (Effective until March 1, 2021) Definitions.**

8531 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a
8532 different meaning:

8533 "Administration of criminal justice" means performance of any activity directly involving the detection,
8534 apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision,
8535 or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of
8536 criminal history record information.

8537 "Board" means the Criminal Justice Services Board.

8538 "Conviction data" means information in the custody of any criminal justice agency relating to a judgment
8539 of conviction, and the consequences arising therefrom, in any court.

8540 "Correctional status information" means records and data concerning each condition of a convicted person's
8541 custodial status, including probation, confinement, work release, study release, escape, or termination of
8542 custody through expiration of sentence, parole, pardon, or court decision.

8543 "Criminal history record information" means records and data collected by criminal justice agencies on
8544 adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments,
8545 informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile
8546 record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice
8547 intelligence information, criminal justice investigative information, or correctional status information.

8548 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as
8549 its principal function performs the administration of criminal justice and any other agency or subunit thereof
8550 which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter
8551 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal
8552 justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of
8553 Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to
8554 meet compulsory training standards established by the Criminal Justice Services Board and submits reports of
8555 compliance with the training standards and (b) the private corporation or agency complies with the provisions
8556 of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a
8557 criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all
8558 criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required
8559 by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

8560 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to §
8561 18.2-271.2.

8562 "Criminal justice agency" includes the Department of Criminal Justice Services.

8563 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

8564 "Criminal justice agency" includes the Virginia State Crime Commission.

8565 "Criminal justice information system" means a system including the equipment, facilities, procedures,
8566 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal
8567 history record information. The operations of the system may be performed manually or by using electronic
8568 computers or other automated data processing equipment.

8569 "Department" means the Department of Criminal Justice Services.

8570 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The
8571 term shall not include access to the information by officers or employees of a criminal justice agency
8572 maintaining the information who have both a need and right to know the information.

8573 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
8574 office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-
8575 time or part-time employee of a private police department, and who is responsible for the prevention and
8576 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall
8577 include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*
8578 *Control Authority*; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
8579 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
8580 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the

8581 Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned
8582 pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor
8583 Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632
8584 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
8585 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to
8586 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
8587 with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
8588 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
8589 police officer employed by a private police department. Part-time employees are those compensated officers
8590 who are not full-time employees as defined by the employing police department, sheriff's office, or private
8591 police department.

8592 "Private police department" means any police department, other than a department that employs police
8593 agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized
8594 by statute or an act of assembly to establish a private police department or such entity's successor in interest,
8595 provided it complies with the requirements set forth herein. No entity is authorized to operate a private police
8596 department or represent that it is a private police department unless such entity has been authorized by statute
8597 or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to
8598 this section, provided it complies with the requirements set forth herein. The authority of a private police
8599 department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the
8600 local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties,
8601 or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§
8602 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall
8603 enter into a memorandum of understanding with the private police department that addresses the duties and
8604 responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal
8605 investigations. Private police departments and private police officers shall be subject to and comply with the
8606 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
8607 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and
8608 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private
8609 police departments. Any person employed as a private police officer pursuant to this section shall meet all
8610 requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant
8611 to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.)
8612 or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law
8613 enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B
8614 et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private
8615 police department may use the word "police" to describe its sworn officers and may join a regional criminal
8616 justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private
8617 police department in existence on January 1, 2013, that was not otherwise established by statute or an act of
8618 assembly and whose status as a private police department was recognized by the Department at that time is
8619 hereby validated and may continue to operate as a private police department as may such entity's successor in
8620 interest, provided it complies with the requirements set forth herein.

8621 "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement
8622 agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

8623 "School security officer" means an individual who is employed by the local school board or a private or
8624 religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating
8625 violations of the policies of the school board or the private or religious school, and detaining students violating
8626 the law or the policies of the school board or the private or religious school on school property, school buses,
8627 or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all
8628 students, faculty, staff, and visitors in the assigned school.

8629 "Unapplied criminal history record information" means information pertaining to criminal offenses
8630 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an

8631 arrested or convicted person (i) because such information is not supported by fingerprints or other accepted
8632 means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the
8633 submitted information.

8634 **§ 9.1-101. (Effective March 1, 2021) Definitions.**

8635 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a
8636 different meaning:

8637 "Administration of criminal justice" means performance of any activity directly involving the detection,
8638 apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision,
8639 or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of
8640 criminal history record information.

8641 "Board" means the Criminal Justice Services Board.

8642 "Conviction data" means information in the custody of any criminal justice agency relating to a judgment
8643 of conviction, and the consequences arising therefrom, in any court.

8644 "Correctional status information" means records and data concerning each condition of a convicted person's
8645 custodial status, including probation, confinement, work release, study release, escape, or termination of
8646 custody through expiration of sentence, parole, pardon, or court decision.

8647 "Criminal history record information" means records and data collected by criminal justice agencies on
8648 adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments,
8649 informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile
8650 record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice
8651 intelligence information, criminal justice investigative information, or correctional status information.

8652 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as
8653 its principal function performs the administration of criminal justice and any other agency or subunit thereof
8654 which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter
8655 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal
8656 justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of
8657 Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to
8658 meet compulsory training standards established by the Criminal Justice Services Board and submits reports of
8659 compliance with the training standards and (b) the private corporation or agency complies with the provisions
8660 of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a
8661 criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all
8662 criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required
8663 by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

8664 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to §
8665 18.2-271.2.

8666 "Criminal justice agency" includes the Department of Criminal Justice Services.

8667 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

8668 "Criminal justice agency" includes the Virginia State Crime Commission.

8669 "Criminal justice information system" means a system including the equipment, facilities, procedures,
8670 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal
8671 history record information. The operations of the system may be performed manually or by using electronic
8672 computers or other automated data processing equipment.

8673 "Department" means the Department of Criminal Justice Services.

8674 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The
8675 term shall not include access to the information by officers or employees of a criminal justice agency
8676 maintaining the information who have both a need and right to know the information.

8677 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
8678 office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-
8679 time or part-time employee of a private police department, and who is responsible for the prevention and
8680 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall

8681 include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*
8682 *Control Authority*; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
8683 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
8684 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the
8685 Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned
8686 pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor
8687 Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632
8688 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
8689 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to
8690 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
8691 with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
8692 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
8693 police officer employed by a private police department. Part-time employees are those compensated officers
8694 who are not full-time employees as defined by the employing police department, sheriff's office, or private
8695 police department.

8696 "Private police department" means any police department, other than a department that employs police
8697 agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized
8698 by statute or an act of assembly to establish a private police department or such entity's successor in interest,
8699 provided it complies with the requirements set forth herein. No entity is authorized to operate a private police
8700 department or represent that it is a private police department unless such entity has been authorized by statute
8701 or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to
8702 this section, provided it complies with the requirements set forth herein. The authority of a private police
8703 department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the
8704 local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties,
8705 or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§
8706 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall
8707 enter into a memorandum of understanding with the private police department that addresses the duties and
8708 responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal
8709 investigations. Private police departments and private police officers shall be subject to and comply with the
8710 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
8711 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-
8712 1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable
8713 to private police departments. Any person employed as a private police officer pursuant to this section shall
8714 meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers
8715 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-
8716 400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified
8717 retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18
8718 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An
8719 authorized private police department may use the word "police" to describe its sworn officers and may join a
8720 regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2.
8721 Any private police department in existence on January 1, 2013, that was not otherwise established by statute or
8722 an act of assembly and whose status as a private police department was recognized by the Department at that
8723 time is hereby validated and may continue to operate as a private police department as may such entity's
8724 successor in interest, provided it complies with the requirements set forth herein.

8725 "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement
8726 agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

8727 "School security officer" means an individual who is employed by the local school board or a private or
8728 religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating
8729 violations of the policies of the school board or the private or religious school, and detaining students violating
8730 the law or the policies of the school board or the private or religious school on school property, school buses,

8731 or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all
8732 students, faculty, staff, and visitors in the assigned school.

8733 "Unapplied criminal history record information" means information pertaining to criminal offenses
8734 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an
8735 arrested or convicted person (i) because such information is not supported by fingerprints or other accepted
8736 means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the
8737 submitted information.

8738 **§ 9.1-400. Title of chapter; definitions.**

8739 A. This chapter shall be known and designated as the Line of Duty Act.

8740 B. As used in this chapter, unless the context requires a different meaning:

8741 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will
8742 of a deceased person if testate, or as his heirs at law if intestate.

8743 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty
8744 as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1,
8745 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-
8746 enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated
8747 pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department
8748 of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting
8749 the operations of the Department of Juvenile Justice, and members of the investigations unit of the State
8750 Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the
8751 operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional
8752 jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of
8753 Richmond; a police chaplain; a member of any fire company or department or emergency medical services
8754 agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or
8755 town of the Commonwealth as an integral part of the official safety program of such county, city, or town,
8756 including a person with a recognized membership status with such fire company or department who is enrolled
8757 in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or
8758 department training required in pursuit of qualification to become a certified firefighter; a member of any fire
8759 company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air
8760 National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is
8761 serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under
8762 Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority
8763 *or the Virginia Cannabis Control Authority*; ~~any~~ a regular or special conservation police officer who receives
8764 compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of
8765 § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-1135; ~~any~~ a member
8766 or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
8767 ~~any~~ a Department of Emergency Management hazardous materials officer; any other employee of the
8768 Department of Emergency Management who is performing official duties of the agency, when those duties are
8769 related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist
8770 under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county, city, or
8771 town performing official emergency management or emergency services duties in cooperation with the
8772 Department of Emergency Management, when those duties are related to a major disaster or emergency, as
8773 defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in
8774 accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing
8775 body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team member; ~~any~~ a conservation
8776 officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-
8777 time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to §
8778 46.2-217.

8779 "Disabled person" means any individual who has been determined to be mentally or physically
8780 incapacitated so as to prevent the further performance of his duties at the time of his disability where such

8781 incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate
8782 result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-
8783 402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition
8784 of deceased person in this section. "Disabled person" does not include any individual who has been determined
8785 to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state
8786 employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

8787 "Eligible dependent," for purposes of continued health insurance pursuant to § 9.1-401, means the natural
8788 or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's
8789 eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to
8790 the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of
8791 the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is
8792 pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing,
8793 "eligible dependent" ~~shall also include~~ *includes* the natural or adopted child or children of a deceased person or
8794 disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's
8795 death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the
8796 eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia
8797 Administrative Code or administrative guidance as determined by the Department of Human Resource
8798 Management.

8799 "Eligible spouse," for purposes of continued health insurance pursuant to § 9.1-401, means the spouse of a
8800 deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the
8801 eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person,
8802 dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative
8803 Code or administrative guidance as determined by the Department of Human Resource Management.

8804 "Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would
8805 be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

8806 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer
8807 who is a member of any fire company or department or rescue squad described in the definition of "deceased
8808 person," the county, city, or town that by ordinance or resolution recognized such fire company or department
8809 or rescue squad as an integral part of the official safety program of such locality.

8810 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

8811 "Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by
8812 rule, regulation, condition of employment or service, or law.

8813 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

8814 "Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that
8815 elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

8816 "Participating employer" means any employer that is a state agency or is a political subdivision of the
8817 Commonwealth that did not make an election to become a nonparticipating employer.

8818 "VRS" means the Virginia Retirement System.

8819 **§ 9.1-500. Definitions.**

8820 As used in this chapter, unless the context requires a different meaning:

8821 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine
8822 Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia
8823 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of
8824 Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus
8825 police department of any public institution of higher education of the Commonwealth employing the law-
8826 enforcement officer.

8827 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent ~~of the~~
8828 ~~Department~~ of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a
8829 nonprobationary officer of one of the following agencies:

8830 a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
 8831 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic
 8832 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor Vehicles, or
 8833 the Department of Conservation and Recreation;

8834 b. The police department, bureau, or force of any political subdivision or the campus police department of
 8835 any public institution of higher education of the Commonwealth where such department, bureau, or force has
 8836 three or more law-enforcement officers; or

8837 c. Any conservation police officer as defined in § 9.1-101.

8838 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's department
 8839 of any city or county.

8840 **§ 9.1-801. Public safety officer defined.**

8841 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
 8842 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional
 8843 officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional
 8844 jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer
 8845 emergency medical services agency that has been recognized by an ordinance or resolution of the governing
 8846 body of any county, city, or town of the Commonwealth as an integral part of the official safety program of
 8847 such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia
 8848 Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force
 8849 on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia
 8850 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; any police agent appointed
 8851 under the provisions of § 56-353; any regular or special conservation police officer who receives compensation
 8852 from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned
 8853 forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources
 8854 Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management
 8855 hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member;
 8856 any investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-time
 8857 sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of
 8858 Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police
 8859 officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any
 8860 conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

8861 **§ 9.1-1101. Powers and duties of the Department.**

8862 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of
 8863 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and
 8864 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant
 8865 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any
 8866 private police department that has been designated as a criminal justice agency by the Department of Criminal
 8867 Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The Department shall
 8868 provide such services to any federal investigatory agency within available resources.

8869 B. The Department shall:

8870 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and
 8871 provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as
 8872 needed;

8873 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of
 8874 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

8875 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six
 8876 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

8877 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*
 8878 *substances for the purposes of Title 4.1 and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use*
 8879 *post-decarboxylation testing or other equivalent method and shall consider the potential conversion of*

8880 *tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived*
8881 *from the sum of the THC and THC-A content.*

8882 C. The Department shall have the power and duty to:

8883 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of
8884 this chapter;

8885 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties
8886 and execution of its powers under this chapter including, but not limited to, contracts with the United States,
8887 units of general local government or combinations thereof in Virginia or other states, and with agencies and
8888 departments of the Commonwealth; and

8889 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

8890 D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry
8891 out the duties and responsibilities conferred by this chapter.

8892 **§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

8893 A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to
8894 carry out any duties as a part of his office in civil matters of advising the governing body and all boards,
8895 departments, agencies, officials and employees of his county or city; of drafting or preparing county or city
8896 ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or
8897 agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing
8898 the county or city, its boards, departments, agencies, officials and employees, except in matters involving the
8899 enforcement of the criminal law within the county or city.

8900 B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the
8901 department of law enforcement of the county or city in which he is elected or appointed, and shall have the
8902 duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments
8903 or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or
8904 any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more,
8905 or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him
8906 by § 2.2-3126. He may enforce the provisions of ~~§ 18.2-250.1~~, 18.2-268.3, 29.1-738.2, 46.2-341.20:7, or 46.2-
8907 341.26:3.

8908 **§ 15.2-2820. Definitions.**

8909 As used in this chapter, unless the context requires a different meaning:

8910 "Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service
8911 of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is
8912 incidental to the consumption of the alcoholic beverages.

8913 "Educational facility" means any building used for instruction of enrolled students, including but not limited
8914 to any day-care center, nursery school, public or private school, institution of higher education, medical school,
8915 law school, or career and technical education school.

8916 "Health care facility" means any institution, place, building, or agency required to be licensed under
8917 Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted
8918 living facility, supervised living facility, or ambulatory medical and surgical center.

8919 "Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant
8920 of a building or portion thereof used exclusively for club purposes, including club or member sponsored events;
8921 (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and
8922 only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both
8923 that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors,
8924 executive committee, or similar body chosen by the members at an annual meeting.

8925 "Private function" means any gathering of persons for the purpose of deliberation, education, instruction,
8926 entertainment, amusement, or dining that is not intended to be open to the public and for which membership or
8927 specific invitation is a prerequisite to entry.

8928 "Private work place" means any office or work area that is not open to the public in the normal course of
8929 business except by individual invitation.

8930 "Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the
8931 public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

8932 "Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass
8933 transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train,
8934 bus, or boat that is not subject to federal smoking regulations.

8935 "Public place" means any enclosed, indoor area used by the general public, including but not limited to any
8936 building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or
8937 public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library,
8938 retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used
8939 for a performance or an exhibit of the arts or sciences, or any meeting room.

8940 "Recreational facility" means any enclosed, indoor area used by the general public and used as a stadium,
8941 arena, skating rink, video game facility, or senior citizen recreational facility.

8942 "Restaurant" means any place where food is prepared for service to the public on or off the premises, or
8943 any place where food is served. Examples of such places include but are not limited to lunchrooms, short order
8944 places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs,
8945 kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and
8946 colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68.

8947 "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed
8948 to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general
8949 public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private
8950 residence or in any location that is not a public place. "Restaurant" shall include any bar or lounge area that is
8951 part of such restaurant.

8952 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind,
8953 including *marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke
8954 from a pipe, cigar, or cigarette of any kind, including *marijuana*.

8955 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed
8956 for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other
8957 similar performance.

8958 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;
8959 prepayment of local ordinances.**

8960 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,
8961 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions
8962 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated
8963 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances.
8964 Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as
8965 prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or
8966 not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200
8967 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

8968 Such infractions shall not include:

8969 1. Indictable offenses;

8970 2. [Repealed.]

8971 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic
8972 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,
8973 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his
8974 custody or control;

8975 4. Reckless driving;

8976 5. Leaving the scene of an accident;

8977 6. Driving while under suspension or revocation of driving privileges;

8978 7. Driving without being licensed to drive.

8979 8. [Repealed.]

8980 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a
8981 magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a
8982 plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,
8983 prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of
8984 guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent
8985 to the Commissioner of the Department of Motor Vehicles.

8986 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a
8987 schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,
8988 designating each infraction specifically. The schedule, which may from time to time be amended, supplemented
8989 or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be
8990 construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed
8991 for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where
8992 the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or
8993 regulations promulgated thereunder.

8994 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and
8995 fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such
8996 ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may
8997 establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment
8998 of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded
8999 within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which
9000 from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout
9001 the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge
9002 trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where
9003 fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or
9004 regulations promulgated thereunder.

9005 **§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic infractions, and**
9006 **other violations in district court; additional fees to be added.**

9007 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing
9008 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of
9009 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;
9010 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic
9011 school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a
9012 finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1105, 4.1-1120, 16.1-278.8, 16.1-
9013 278.9, 18.2-57.3, 18.2-251, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104,
9014 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-
9015 1053, and 46.2-1158.02.

9016 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a
9017 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure
9018 to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed
9019 fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that
9020 incident. However, when a defendant who has multiple charges arising from the same incident and who has
9021 been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same
9022 incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed
9023 and the higher fixed fee.

9024 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if
9025 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

9026 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also
9027 assess any costs otherwise specifically provided by statute.

9028 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there
9029 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee
9030 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 9031** 1. Processing fee (General Fund) (.573770);
9032 2. Virginia Crime Victim-Witness Fund (.049180);
9033 3. Regional Criminal Justice Training Academies Fund (.016393);
9034 4. Courthouse Construction/Maintenance Fund (.032787);
9035 5. Criminal Injuries Compensation Fund (.098361);
9036 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
9037 7. Sentencing/supervision fee (General Fund) (.131148); and
9038 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

9039 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-
9040 247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount
9041 collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds
9042 in the fractional amounts designated:

- 9043** 1. Processing fee (General Fund) (.257353);
9044 2. Virginia Crime Victim-Witness Fund (.022059);
9045 3. Regional Criminal Justice Training Academies Fund (.007353);
9046 4. Courthouse Construction/Maintenance Fund (.014706);
9047 5. Criminal Injuries Compensation Fund (.044118);
9048 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
9049 7. Drug Offender Assessment and Treatment Fund (.551471);
9050 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9051 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

9052 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The
9053 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following
9054 funds in the fractional amounts designated:

- 9055** 1. Processing fee (General Fund) (.764706);
9056 2. Virginia Crime Victim-Witness Fund (.058824);
9057 3. Regional Criminal Justice Training Academies Fund (.019608);
9058 4. Courthouse Construction/Maintenance Fund (.039216);
9059 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
9060 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

9061 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and other**
9062 **violations in district court; additional fees to be added.**

9063 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing
9064 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of
9065 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;
9066 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic
9067 school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a
9068 finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1105, 4.1-1120, 16.1-278.8, 16.1-
9069 278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under
9070 §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003,
9071 46.2-1052, 46.2-1053, and 46.2-1158.02.

9072 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a
9073 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure
9074 to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed
9075 fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that
9076 incident. However, when a defendant who has multiple charges arising from the same incident and who has
9077 been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same

9078 incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed
 9079 and the higher fixed fee.

9080 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if
 9081 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

9082 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also
 9083 assess any costs otherwise specifically provided by statute.

9084 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there
 9085 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee
 9086 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 9087 1. Processing fee (General Fund) (.573770);
- 9088 2. Virginia Crime Victim-Witness Fund (.049180);
- 9089 3. Regional Criminal Justice Training Academies Fund (.016393);
- 9090 4. Courthouse Construction/Maintenance Fund (.032787);
- 9091 5. Criminal Injuries Compensation Fund (.098361);
- 9092 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 9093 7. Sentencing/supervision fee (General Fund)(.131148); and
- 9094 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

9095 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-
 9096 247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount
 9097 collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds
 9098 in the fractional amounts designated:

- 9099 1. Processing fee (General Fund) (.257353);
- 9100 2. Virginia Crime Victim-Witness Fund (.022059);
- 9101 3. Regional Criminal Justice Training Academies Fund (.007353);
- 9102 4. Courthouse Construction/Maintenance Fund (.014706);
- 9103 5. Criminal Injuries Compensation Fund (.044118);
- 9104 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 9105 7. Drug Offender Assessment and Treatment Fund (.551471);
- 9106 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 9107 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

9108 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The
 9109 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following
 9110 funds in the fractional amounts designated:

- 9111 1. Processing fee (General Fund) (.764706);
- 9112 2. Virginia Crime Victim-Witness Fund (.058824);
- 9113 3. Regional Criminal Justice Training Academies Fund (.019608);
- 9114 4. Courthouse Construction/Maintenance Fund (.039216);
- 9115 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 9116 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

9117 **§ 16.1-228. Definitions.**

9118 As used in this chapter, unless the context requires a different meaning:

9119 "Abused or neglected child" means any child:

- 9120 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or
 9121 allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or
 9122 creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but
 9123 not limited to, a child who is with his parent or other person responsible for his care either (i) during the
 9124 manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful
 9125 sale of such substance by that child's parents or other person responsible for his care, where such manufacture,
 9126 or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

9127 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
9128 his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in
9129 accordance with the tenets and practices of a recognized church or religious denomination shall for that reason
9130 alone be considered to be an abused or neglected child;

9131 3. Whose parents or other person responsible for his care abandons such child;

9132 4. Whose parents or other person responsible for his care commits or allows to be committed any sexual
9133 act upon a child in violation of the law;

9134 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
9135 physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

9136 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
9137 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-
9138 2000, with a person to whom the child is not related by blood or marriage and who the parent or other person
9139 responsible for his care knows has been convicted of an offense against a minor for which registration is
9140 required as a Tier III offender pursuant to § 9.1-902; or

9141 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the
9142 federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for
9143 Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

9144 If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or
9145 emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child
9146 to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency
9147 that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of
9148 terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child
9149 is a neglected child upon the ground of abandonment.

9150 "Adoptive home" means the place of residence of any natural person in which a child resides as a member
9151 of the household and in which he has been placed for the purposes of adoption or in which he has been legally
9152 adopted by another member of the household.

9153 "Adult" means a person 18 years of age or older.

9154 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the
9155 same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that
9156 would be a felony if committed by an adult.

9157 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly structured
9158 components including, but not limited to, military style drill and ceremony, physical labor, education and rigid
9159 discipline, and no less than six months of intensive aftercare.

9160 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes
9161 of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger
9162 than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

9163 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a
9164 serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior,
9165 conduct or condition presents or results in a serious threat to the well-being and physical safety of another
9166 person; however, no child who in good faith is under treatment solely by spiritual means through prayer in
9167 accordance with the tenets and practices of a recognized church or religious denomination shall for that reason
9168 alone be considered to be a child in need of services, nor shall any child who habitually remains away from or
9169 habitually deserts or abandons his family as a result of what the court or the local child protective services unit
9170 determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of
9171 services for that reason alone.

9172 However, to find that a child falls within these provisions, (i) the conduct complained of must present a
9173 clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or
9174 his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the
9175 intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or
9176 his family.

9177 "Child in need of supervision" means:

9178 1. A child who, while subject to compulsory school attendance, is habitually and without justification absent
9179 from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all
9180 educational services and programs that are required to be provided by law and which meet the child's particular
9181 educational needs, (ii) the school system from which the child is absent or other appropriate agency has made
9182 a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has
9183 provided documentation that it has complied with the provisions of § 22.1-258; or

9184 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
9185 placement authority, remains away from or deserts or abandons his family or lawful custodian on more than
9186 one occasion or escapes or remains away without proper authority from a residential care facility in which he
9187 has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or
9188 health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,
9189 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by
9190 the child or his family.

9191 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster home
9192 as defined in § 63.2-100.

9193 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and
9194 domestic relations district court of each county or city.

9195 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance
9196 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a
9197 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of §
9198 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of
9199 §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath test in violation of § 18.2-268.2
9200 or a similar ordinance of any county, city, or town. ~~For purposes of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-~~
9201 ~~278.8-01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.~~

9202 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed a
9203 delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated
9204 under the provisions of § 16.1-269.6.

9205 "Department" means the Department of Juvenile Justice and "Director" means the administrative head in
9206 charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties
9207 imposed upon him under this law.

9208 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the
9209 comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

9210 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one
9211 in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against
9212 such person's family or household member. Such act includes, but is not limited to, any forceful detention,
9213 stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any
9214 criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault,
9215 or bodily injury.

9216 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the same
9217 home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with
9218 the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-
9219 sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the
9220 person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and
9221 sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with
9222 the person, whether or not the person and that individual have been married or have resided together at any
9223 time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person,
9224 and any children of either of them then residing in the same home with the person.

9225 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
9226 relationship with the child or his family.

9227 "Foster care services" means the provision of a full range of casework, treatment and community services
9228 for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services
9229 as defined in this section and his family when the child (i) has been identified as needing services to prevent or
9230 eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board
9231 of social services or a public agency designated by the community policy and management team and the parents
9232 or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted
9233 to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory
9234 responsibility of the local board pursuant to § 16.1-293.

9235 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
9236 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
9237 or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the
9238 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living
9239 arrangement in which such child or person does not have daily substitute parental supervision.

9240 "Independent living services" means services and activities provided to a child in foster care 14 years of
9241 age or older and who has been committed or entrusted to a local board of social services, child welfare agency,
9242 or private child-placing agency. "Independent living services" may also mean services and activities provided
9243 to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is
9244 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
9245 Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a
9246 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
9247 prior to placement in an independent living arrangement. "Independent living services" includes counseling,
9248 education, housing, employment, and money management skills development and access to essential documents
9249 and other appropriate services to help children or persons prepare for self-sufficiency.

9250 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
9251 chapter.

9252 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility
9253 as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child
9254 incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile
9255 facility.

9256 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of
9257 each county or city.

9258 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this
9259 chapter.

9260 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have
9261 physical custody of the child, to determine and redetermine where and with whom he shall live, the right and
9262 duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical
9263 care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order
9264 of joint custody as defined in § 20-107.2.

9265 "Permanent foster care placement" means the place of residence in which a child resides and in which he
9266 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement
9267 between the placing agency and the place of permanent foster care that the child shall remain in the placement
9268 until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251
9269 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons
9270 deemed appropriate to meet a child's needs on a long-term basis.

9271 "Qualified individual" means a trained professional or licensed clinician who is not an employee of the
9272 local board of social services or licensed child-placing agency that placed the child in a qualified residential
9273 treatment program and is not affiliated with any placement setting in which children are placed by such local
9274 board of social services or licensed child-placing agency.

9275 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
9276 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical

9277 and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs
9278 identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or
9279 licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are
9280 available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including
9281 efforts to maintain connections between the child and his siblings and other family; documents and maintains
9282 records of such outreach efforts; and maintains contact information for any known biological family and fictive
9283 kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family
9284 members in the child's treatment program before and after discharge and documents the manner in which such
9285 participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six
9286 months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
9287 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child
9288 placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a)
9289 assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional
9290 assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child
9291 can be met through placement with a family member or in a foster home or, if not, in a placement setting
9292 authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide
9293 the most effective and appropriate level of care for the child in the least restrictive environment and be consistent
9294 with the short-term and long-term goals established for the child in his foster care or permanency plan; (c)
9295 establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is
9296 documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant
9297 to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

9298 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the
9299 parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of
9300 visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

9301 "Secure facility" or "detention home" means a local, regional or state public or private locked residential
9302 facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of
9303 children held in lawful custody.

9304 "Shelter care" means the temporary care of children in physically unrestricting facilities.

9305 "State Board" means the State Board of Juvenile Justice.

9306 "Status offender" means a child who commits an act prohibited by law which would not be criminal if
9307 committed by an adult.

9308 "Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

9309 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1
9310 when committed by a juvenile 14 years of age or older.

9311 **§ 16.1-260. Intake; petition; investigation.**

9312 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a
9313 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as
9314 provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social
9315 Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of
9316 petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the
9317 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated
9318 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions
9319 relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court
9320 of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may
9321 complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster
9322 care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish
9323 or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
9324 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the
9325 petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging
9326 abuse or neglect of a child shall be referred initially to the local department of social services in accordance

9327 with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings
9328 in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is
9329 filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual
9330 who is receiving support services or public assistance shall be denied the right to file a petition or motion to
9331 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support
9332 services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion,
9333 together with notice of the court date, to the Division of Child Support Enforcement.

9334 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake
9335 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio
9336 communication is used, an intake officer may exercise all powers conferred by law. All communications and
9337 proceedings shall be conducted in the same manner as if the appearance were in person, and any documents
9338 filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person
9339 to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an
9340 original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video
9341 and audio communication system used for an appearance shall meet the standards as set forth in subsection B
9342 of § 19.2-3.1.

9343 When the court service unit of any court receives a complaint alleging facts which may be sufficient to
9344 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed
9345 informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition
9346 to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the
9347 issuance of the petition.

9348 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of
9349 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or
9350 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would
9351 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony
9352 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a
9353 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded
9354 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if
9355 committed by an adult.

9356 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the
9357 attendance officer has provided documentation to the intake officer that the relevant school division has
9358 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake
9359 officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the
9360 juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more
9361 than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2)
9362 the immediately previous informal action or adjudication occurred at least three calendar years prior to the
9363 current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis
9364 must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that
9365 the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such
9366 programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure
9367 the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may
9368 refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
9369 interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably
9370 available from the appropriate department of social services, community services board, local school division,
9371 court service unit, and other appropriate and available public and private agencies and may be the family
9372 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile
9373 has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the
9374 petition.

9375 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in
9376 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the

9377 juvenile, which may include restitution and the performance of community service, based upon community
9378 resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken
9379 by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's
9380 parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint
9381 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke
9382 the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

9383 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
9384 support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned,
9385 or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal
9386 custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services
9387 which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to §
9388 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order
9389 is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the
9390 respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases
9391 in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if
9392 the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be
9393 in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency
9394 other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
9395 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of
9396 the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-
9397 253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-
9398 152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and
9399 time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

9400 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
9401 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of
9402 supervision have utilized or attempted to utilize treatment and services available in the community and have
9403 exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines
9404 that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate
9405 nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of
9406 supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a
9407 petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort
9408 to utilize available community treatment or services may he permit the petition to be filed.

9409 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
9410 would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at
9411 that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that
9412 probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court.
9413 The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a
9414 petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention
9415 or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
9416 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child
9417 in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision
9418 is final.

9419 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake
9420 officer shall accept and file a petition founded upon the warrant.

9421 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which
9422 alleges facts of an offense which would be a felony if committed by an adult.

9423 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report
9424 with the division superintendent of the school division in which any student who is the subject of a petition
9425 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime
9426 if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within

9427 the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and
 9428 the nature of the offense, if the violation involves:

- 9429 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.),
 9430 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
 9431 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
 9432 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
 9433 18.2;
 9434 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
 9435 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
 9436 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
 9437 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et~~
 9438 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~
 9439 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
 9440 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
 9441 9. Robbery pursuant to § 18.2-58;
 9442 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
 9443 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
 9444 12. An act of violence by a mob pursuant to § 18.2-42.1;
 9445 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
 9446 14. A threat pursuant to § 18.2-60.

9447 The failure to provide information regarding the school in which the student who is the subject of the
 9448 petition may be enrolled shall not be grounds for refusing to file a petition.

9449 The information provided to a division superintendent pursuant to this section may be disclosed only as
 9450 provided in § 16.1-305.2.

9451 H. The filing of a petition shall not be necessary:

9452 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other
 9453 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any
 9454 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the
 9455 court may proceed on a summons issued by the officer investigating the violation in the same manner as
 9456 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of
 9457 the accident or at any other location where a juvenile who is involved in such an accident may be located,
 9458 proceed on a summons in lieu of filing a petition.

9459 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of §
 9460 16.1-241.

9461 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
 9462 commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1,~~ provided that the juvenile is
 9463 released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a
 9464 juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a
 9465 summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the
 9466 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
 9467 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
 9468 blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through
 9469 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall
 9470 authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian
 9471 and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.
 9472 When a violation of § 4.1-305 or ~~18.2-250.1 4.1-1104~~ is charged by summons, the juvenile shall be entitled to
 9473 have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided
 9474 that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time
 9475 such summons alleging a violation of § 4.1-305 or ~~18.2-250.1 4.1-1104~~ is served, the officer shall also serve
 9476 upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the

9477 Supreme Court and make return of such service to the court. If the officer fails to make such service or return,
 9478 the court shall dismiss the summons without prejudice.

9479 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4
 9480 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a
 9481 summons issued by the officer investigating the violation in the same manner as provided by law for adults
 9482 provided that notice of the summons to appear is mailed by the investigating officer within five days of the
 9483 issuance of the summons to a parent or legal guardian of the juvenile.

9484 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the
 9485 jurisdiction granted it in § 16.1-241.

9486 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
 9487 **statement.**

9488 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving
 9489 a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game
 9490 and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court
 9491 before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii)
 9492 may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the
 9493 physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang
 9494 as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation
 9495 of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after
 9496 January 1, 2000, which would be (a) a felony if committed by an adult, (b) a violation under Article 1 (§ 18.2-
 9497 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
 9498 as a Class 1 or Class 2 misdemeanor if committed by an adult, or (c) a violation of ~~§ 18.2-250.1~~ *4.1-1104*, the
 9499 court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has
 9500 a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse
 9501 counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated
 9502 court services unit or by an individual employed by or currently under contract to such agencies and who is
 9503 specifically trained to conduct such assessments under the supervision of such counselor.

9504 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or
 9505 may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of
 9506 § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or
 9507 economic injury as a result of the violation of law.

9508 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests;**
 9509 **costs and fees; education or treatment programs.**

9510 Whenever any juvenile who has not previously been found delinquent of any offense under *Chapter 11* (§
 9511 *4.1-1100 et seq.*) of *Title 4.1* or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or under any statute of
 9512 the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic
 9513 drugs, or has not previously had a proceeding against him for a violation of such an offense dismissed as
 9514 provided in § *4.1-1120* or 18.2-251, is found delinquent of any offense concerning the use, in any manner, of
 9515 drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances, the
 9516 juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant
 9517 to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be
 9518 directed by the court. Such testing shall be conducted by a court services unit of the Department of Juvenile
 9519 Justice, or by a locally operated court services unit or by personnel of any program or agency approved by the
 9520 Department. The cost of such testing ordered by the court shall be paid by the Commonwealth from funds
 9521 appropriated to the Department for this purpose. The court shall also order the juvenile to undergo such
 9522 treatment or education program for substance abuse, if available, as the court deems appropriate based upon
 9523 consideration of the substance abuse assessment. The treatment or education shall be provided by a program
 9524 licensed by the Department of Behavioral Health and Developmental Services or by a similar program available
 9525 through a facility or program operated by or under contract to 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.).

§ 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 § ~~18.2-250.1~~, 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 of this section. 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.

9575 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
9576 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the
9577 physical custody of the court during any period of license denial.

9578 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
9579 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
9580 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
9581 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2,
9582 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts.
9583 No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
9584 results in an adjudication of guilt pursuant to subsection F.

9585 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's
9586 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the
9587 order of denial under subsection E.

9588 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection
9589 A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action
9590 program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the
9591 finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection
9592 A, such child may be referred to appropriate rehabilitative or educational services upon such terms and
9593 conditions as the court may set forth.

9594 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted
9595 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
9596 of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of §
9597 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and
9598 from home and school when school-provided transportation is available and no restricted license shall be issued
9599 if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it
9600 involves a second or subsequent violation of any offense designated in subsection A, a second finding by the
9601 court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a
9602 second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The
9603 issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to
9604 the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the
9605 child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order
9606 in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed
9607 pursuant to this section is guilty of a violation of § 46.2-301.

9608 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any
9609 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For
9610 a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year
9611 after its issuance.

9612 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
9613 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
9614 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the
9615 finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the
9616 child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without
9617 an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section
9618 in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication
9619 of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,
9620 the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions
9621 of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or
9622 (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under
9623 § 16.1-278.8.

9624 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

9625 A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294
 9626 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the
 9627 clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295.
 9628 The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount
 9629 not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee
 9630 provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as
 9631 defined in § 17.1-295.

9632 The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the
 9633 Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the
 9634 Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage
 9635 Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail and Public
 9636 Transportation shall be exempt from paying any fee for remote access to land records. If any clerk contracts
 9637 with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a
 9638 provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of
 9639 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of
 9640 General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia
 9641 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail
 9642 and Public Transportation from paying any access or subscription fee.

9643 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have
 9644 remote access, in accordance with the security standards established by the Virginia Information Technologies
 9645 Agency. Any such agreement between a state agency or employee thereof acting in the employee's official
 9646 capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to
 9647 subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official
 9648 capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency
 9649 or employee thereof acting in the employee's official capacity to indemnify the clerk or the vendor. Any such
 9650 agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is
 9651 required to monitor its employees' activity under such agreement to ensure compliance with its terms.

9652 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that
 9653 shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded
 9654 in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

9655 D. Nothing herein shall be construed to require the use by the general public of the secure remote access to
 9656 land records made available by the clerk, and such records may continue to be accessed in person in the clerk's
 9657 office.

9658 **§ 18.2-46.1. Definitions.**

9659 As used in this article unless the context requires otherwise or it is otherwise provided:

9660 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

9661 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,
 9662 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one
 9663 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose
 9664 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to
 9665 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,
 9666 provided such acts were not part of a common act or transaction.

9667 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3,
 9668 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,
 9669 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,
 9670 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,
 9671 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-
 9672 356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a
 9673 felony violation of § 4.1-1101 or 18.2-248 or of ~~18.2-248.1~~ or a conspiracy to commit a felony violation of §
 9674 4.1-1101 or 18.2-248 or ~~18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2;

9675 or (vi) any substantially similar offense under the laws of another state or territory of the United States, the
9676 District of Columbia, or the United States.

9677 **§ 18.2-57. Assault and battery; penalty.**

9678 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and
9679 if the person intentionally selects the person against whom a simple assault is committed because of his race,
9680 religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty
9681 upon conviction shall include a term of confinement of at least six months.

9682 B. However, if a person intentionally selects the person against whom an assault and battery resulting in
9683 bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual
9684 orientation, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction
9685 shall include a term of confinement of at least six months.

9686 C. In addition, if any person commits an assault or an assault and battery against another knowing or having
9687 reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in
9688 subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or
9689 supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional
9690 correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the
9691 facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under
9692 the supervision of the Department of Juvenile Justice, an employee or other individual who provides control,
9693 care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral
9694 Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any
9695 emergency medical services personnel member who is employed by or is a volunteer of an emergency medical
9696 services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical
9697 services agency, regardless of whether a resolution has been adopted by the governing body of a political
9698 subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in
9699 the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony,
9700 and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of
9701 six months.

9702 Nothing in this subsection shall be construed to affect the right of any person charged with a violation of
9703 this section from asserting and presenting evidence in support of any defenses to the charge that may be
9704 available under common law.

9705 D. In addition, if any person commits a battery against another knowing or having reason to know that such
9706 other person is a full-time or part-time employee of any public or private elementary or secondary school and
9707 is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of
9708 such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory
9709 minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon
9710 prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence
9711 of confinement of six months.

9712 E. In addition, any person who commits a battery against another knowing or having reason to know that
9713 such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his
9714 duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency
9715 medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a
9716 term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

9717 F. As used in this section:

9718 "Disability" means a physical or mental impairment that substantially limits one or more of a person's major
9719 life activities.

9720 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title
9721 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

9722 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated
9723 under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109,

9724 any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission,
9725 and any judge of a district court of the Commonwealth or any substitute judge of such district court.

9726 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
9727 office that is part of or administered by the Commonwealth or any political subdivision thereof who is
9728 responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws
9729 of the Commonwealth, any conservation officer of the Department of Conservation and Recreation
9730 commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority
9731 or the Virginia Cannabis Control Authority, any conservation police-officers officer appointed pursuant to §
9732 29.1-200, any full-time sworn-members member of the enforcement division of the Department of Motor
9733 Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated
9734 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes any
9735 jail-officers officer in a local and or regional correctional-facilities facility, all any deputy-sheriffs sheriff,
9736 whether assigned to law-enforcement duties, court services or local jail responsibilities, any auxiliary police
9737 officers officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, any auxiliary deputy-sheriffs
9738 sheriff appointed pursuant to § 15.2-1603, any police-officers officer of the Metropolitan Washington Airports
9739 Authority pursuant to § 5.1-158, and any fire-marshals marshal appointed pursuant to § 27-30 when such fire
9740 marshals have marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1.

9741 "School security officer" means the same as that term is defined in § 9.1-101.

9742 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school
9743 security officer or full-time or part-time employee of any public or private elementary or secondary school
9744 while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or
9745 reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and
9746 necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical
9747 injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting
9748 physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v)
9749 reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled
9750 substances or associated paraphernalia that are upon the person of the student or within his control.

9751 In determining whether a person was acting within the exceptions provided in this subsection, due deference
9752 shall be given to reasonable judgments that were made by a school security officer or full-time or part-time
9753 employee of any public or private elementary or secondary school at the time of the event.

9754 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI," "imitation**
9755 **controlled substance" and "counterfeit controlled substance" in Title 18.2.**

9756 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title
9757 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

9758 B. The term "imitation controlled substance," when used in this article, means (i) a counterfeit controlled
9759 substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance
9760 subject to abuse; and:

9761 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by
9762 representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form
9763 whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce
9764 prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

9765 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or
9766 depressant of the central nervous system and which is not commonly used or recognized for use in that particular
9767 formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or
9768 sold as permitted by the U.S. Food and Drug Administration.

9769 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation
9770 controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with
9771 accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug
9772 abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance

9773 in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug,
9774 and the methods of distribution of the drug and where and how it is sold to the public.

9775 D. ~~The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether~~
9776 ~~growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation~~
9777 ~~of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include~~
9778 ~~the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant,~~
9779 ~~unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis. Marijuana~~
9780 ~~does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant~~
9781 ~~to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a~~
9782 ~~tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as~~
9783 ~~defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.~~

9784 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,
9785 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade
9786 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,
9787 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so
9788 manufacture, process, pack or distribute such drug.

9789 F. ~~The Department of Forensic Science shall determine the proper methods for detecting the concentration~~
9790 ~~of delta 9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-~~
9791 ~~3446. The testing methodology shall use post decarboxylation testing or other equivalent method and shall~~
9792 ~~consider the potential conversion of delta 9 tetrahydrocannabinol acid (THC A) into THC. The test result shall~~
9793 ~~include the total available THC derived from the sum of the THC and THC A content.~~

9794 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell,**
9795 **give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.**

9796 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), ~~it shall be~~ *is* unlawful for any person
9797 to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled
9798 substance or an imitation controlled substance.

9799 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled
9800 substance, the court may consider, in addition to all other relevant evidence, whether any distribution or
9801 attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an
9802 exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such
9803 consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in
9804 any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or
9805 substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances
9806 of like chemical composition sell.

9807 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled
9808 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than
9809 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in
9810 the warrant, indictment, or information that the person has been before convicted of such an offense or of a
9811 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the
9812 Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant,
9813 indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence,
9814 be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a
9815 mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be
9816 fined not more than \$500,000.

9817 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the
9818 warrant, indictment or information that he has been before convicted of two or more such offenses or of
9819 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the
9820 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,
9821 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10

9822 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with
9823 any other sentence, and he shall be fined not more than \$500,000.

9824 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
9825 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and
9826 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment
9827 to be served consecutively with any other sentence:

9828 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

9829 2. 500 grams or more of a mixture or substance containing a detectable amount of:

9830 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
9831 of ecgonine or their salts have been removed;

9832 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

9833 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

9834 d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in
9835 subdivisions ~~2a through 2e~~ a, b, and c;

9836 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~ that contain
9837 cocaine base; or

9838 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of
9839 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its
9840 isomers.

9841 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not
9842 be applicable if the court finds that:

9843 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

9844 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous
9845 weapon in connection with the offense or induce another participant in the offense to do so;

9846 c. The offense did not result in death or serious bodily injury to any person;

9847 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not
9848 engaged in a continuing criminal enterprise as defined in subsection I; and

9849 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth
9850 all information and evidence the person has concerning the offense or offenses that were part of the same course
9851 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other
9852 information to provide or that the Commonwealth already is aware of the information shall not preclude a
9853 determination by the court that the defendant has complied with this requirement.

9854 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,
9855 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount
9856 of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less
9857 than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation,
9858 any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment
9859 for life or for any period not less than 10 years, and be fined not more than \$500,000. When a person is convicted
9860 of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information
9861 that he has been previously convicted of two or more such offenses or of substantially similar offenses in any
9862 other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior
9863 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall
9864 be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a
9865 mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be
9866 fined not more than \$500,000.

9867 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered
9868 by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property
9869 is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This
9870 restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup,
9871 removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered

9872 unusable as a result of such methamphetamine production is property owned in whole or in part by the person
 9873 convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-
 9874 248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected
 9875 property or, if actual or estimated expenses cannot be determined, the sum of \$10,000. The convicted person
 9876 shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is
 9877 safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

9878 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled
 9879 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate
 9880 in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-
 9881 1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received
 9882 or expected nor to induce the recipient or intended recipient of the controlled substance to use or become
 9883 addicted to or dependent upon such controlled substance, ~~he shall be~~ *is* guilty of a Class 5 felony.

9884 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription
 9885 of a person authorized under this article to issue the same, which prescription has not been received in writing
 9886 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist
 9887 within one week of the time of filling the same, or if such violation consists of a request by such authorized
 9888 person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist
 9889 and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one
 9890 week thereof, either such offense shall constitute a Class 4 misdemeanor.

9891 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III
 9892 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is*
 9893 guilty of a Class 5 felony.

9894 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV
 9895 ~~shall be~~ *is* guilty of a Class 6 felony.

9896 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a
 9897 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,
 9898 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate
 9899 in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-
 9900 1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration
 9901 received or expected nor to induce the recipient or intended recipient of the controlled substance to use or
 9902 become addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

9903 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or
 9904 Schedule VI or an imitation controlled substance ~~which that~~ imitates a controlled substance classified in
 9905 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

9906 G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~ imitates
 9907 a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In any
 9908 prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant
 9909 believed the imitation controlled substance to actually be a controlled substance.

9910 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
 9911 give or distribute the following:

9912 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
 9913 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 9914 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
 9915 of ecgonine or their salts have been removed;

9916 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

9917 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

9918 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances referred
 9919 to in subdivisions a ~~through~~, b, and c;

9920 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ contains cocaine
 9921 base; *or*

9922 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
 9923 ~~5.~~ 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more
 9924 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its
 9925 isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20
 9926 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence
 9927 shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed
 9928 in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a
 9929 firearm or other dangerous weapon in connection with the offense or induce another participant in the offense
 9930 to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not
 9931 an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing
 9932 criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing
 9933 hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has
 9934 concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan,
 9935 but the fact that the person has no relevant or useful other information to provide or that the Commonwealth
 9936 already is aware of the information shall not preclude a determination by the court that the defendant has
 9937 complied with this requirement.

9938 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a
 9939 continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000 but
 9940 less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,
 9941 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,
 9942 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,
 9943 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any
 9944 12-month period of its existence:

9945 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable
 9946 amount of heroin;

9947 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount
 9948 of:

9949 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
 9950 of ecgonine or their salts have been removed;

9951 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

9952 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

9953 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred
 9954 to in subdivisions a ~~through b, and c~~;

9955 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2
 9956 ~~which~~ *that* contains cocaine base; *or*

9957 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~
 9958 ~~amount of marijuana; or~~

9959 ~~5.~~ At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers
 9960 or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of
 9961 methamphetamine, its salts, isomers, or salts of its isomers.

9962 A conviction under this section shall be punishable by a fine of not more than \$1 million and imprisonment
 9963 for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

9964 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a
 9965 continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any 12-
 9966 month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine
 9967 or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person
 9968 engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell,
 9969 give or distribute the following during any 12-month period of its existence:

9970 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

9971 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

9972 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
 9973 of ecgonine or their salts have been removed;
 9974 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 9975 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 9976 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred
 9977 to in subdivisions a ~~through, b, and c~~;
 9978 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine
 9979 base; *or*
 9980 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~
 9981 ~~5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms~~
 9982 ~~of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its~~
 9983 ~~isomers shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for
 9984 life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run
 9985 consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40
 9986 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.
 9987 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any
 9988 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a
 9989 continuing series of violations of this section which are undertaken by such person in concert with five or more
 9990 other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any
 9991 other position of management, and from which such person obtains substantial income or resources or (iii) such
 9992 violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule
 9993 I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-
 9994 46.1.
 9995 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two
 9996 or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or
 9997 amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus
 9998 acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone,
 9999 phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid,
 10000 sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide,
 10001 methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.
 10002 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
 10003 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts
 10004 of optical isomers.
 10005 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**
 10006 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to transport
 10007 into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine, coca leaves
 10008 or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act or
 10009 one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds of marijuana~~. A
 10010 violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall be
 10011 sentenced to not less than five years nor more than 40 years imprisonment, three years of which shall be a
 10012 mandatory minimum term of imprisonment, and a fine not to exceed \$1,000,000. A second or subsequent
 10013 conviction hereunder shall be punishable by a mandatory minimum term of imprisonment of 10 years, which
 10014 shall be served consecutively with any other sentence.
 10015 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance**
 10016 **abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;**
 10017 **violations; discharge.**
 10018 Whenever any person who has not previously been convicted of any criminal offense under this article or
 10019 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
 10020 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such
 10021 an offense dismissed as provided in this section, or pleads guilty to or enters a plea of not guilty to possession

10022 of a controlled substance under § 18.2-250, the court, upon such plea if the facts found by the court would
10023 justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer
10024 further proceedings and place him on probation upon terms and conditions. If the court defers further
10025 proceedings, at that time the court shall determine whether the clerk of court has been provided with the
10026 fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant
10027 to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-
10028 enforcement officer.

10029 As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant
10030 to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if
10031 available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon
10032 consideration of the substance abuse assessment. The program or services may be located in the judicial district
10033 in which the charge is brought or in any other judicial district as the court may provide. The services shall be
10034 provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a
10035 similar program which is made available through the Department of Corrections, (ii) a local community-based
10036 probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the
10037 Commission on VASAP.

10038 The court shall require the person entering such program under the provisions of this section to pay all or
10039 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based
10040 upon the accused's ability to pay unless the person is determined by the court to be indigent.

10041 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or
10042 education program or services, (b) to remain drug and alcohol free during the period of probation and submit
10043 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and
10044 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan
10045 of at least 100 hours of community service for a felony and up to 24 hours of community service for a
10046 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel
10047 of any program or agency approved by the supervising probation agency.

10048 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise
10049 provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been
10050 provided with the fingerprint identification information or fingerprints of such person, the court shall discharge
10051 the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
10052 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
10053 proceedings.

10054 Notwithstanding any other provision of this section, whenever a court places an individual on probation
10055 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of
10056 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had
10057 his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

10058 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

10059 There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which
10060 shall consist of moneys received from ~~(i) fees imposed on certain drug offense convictions pursuant to § 16.1-~~
10061 ~~69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for violations of § 18.2-~~
10062 ~~250.1. All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund.~~
10063 Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and
10064 Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All
10065 moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of
10066 Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the
10067 offender substance abuse screening and assessment program; the Department of Criminal Justice Services for
10068 the support of community-based probation and local pretrial services agencies; and the Office of the Executive
10069 Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

10070 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

10071 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
 10072 consumption or use of a controlled substance, alcohol, or any combination of such substances.

10073 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
 10074 consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana*
 10075 *pursuant to § 4.1-1104 or 4.1-1105*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of~~
 10076 ~~marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled
 10077 paraphernalia pursuant to § 54.1-3466 if:

10078 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is
 10079 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or
 10080 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical
 10081 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in §
 10082 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as
 10083 defined in § 9.1-101, or an emergency 911 system;

10084 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the
 10085 person requiring emergency medical attention has been transported until a law-enforcement officer responds to
 10086 the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the
 10087 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

10088 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
 10089 overdose; and

10090 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
 10091 the individual seeking or obtaining emergency medical attention.

10092 C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
 10093 attention for himself or another individual, or to a person experiencing an overdose when another individual
 10094 seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the
 10095 conduct of a lawful search or a lawful arrest.

10096 D. This section does not establish protection from arrest or prosecution for any individual or offense other
 10097 than those listed in subsection B.

10098 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
 10099 determined that the person arrested was immune from prosecution under this section.

10100 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

10101 No school nurse employed by a local school board, person employed by a local health department who is
 10102 assigned to the public school pursuant to an agreement between the local health department and the school
 10103 board, or other person employed by or contracted with a local school board to deliver health-related services
 10104 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, ~~18.2-~~
 10105 ~~250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering
 10106 cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a
 10107 valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

10108 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**
 10109 **facilities; hospice and hospice facilities; assisted living facilities.**

10110 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized
 10111 to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11*
 10112 *(§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, or 18.2-250, ~~or 18.2-250.1~~ for the possession or
 10113 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or
 10114 resident who has been issued a valid written certification for the use of cannabis oil in accordance with
 10115 subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

10116 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.**

10117 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial
 10118 hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed
 10119 industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11*
 10120 *(§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession

10121 or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing
10122 purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture
10123 and Consumer Services.

10124 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and**
10125 **treatment or education.**

10126 The trial judge or court trying the case of any person found guilty of a criminal violation of any law
10127 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
10128 substances and like substances shall condition any suspended sentence by first requiring such person to agree
10129 to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance
10130 abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the
10131 supervising probation agency or by personnel of any program or agency approved by the supervising probation
10132 agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part
10133 of the costs of such proceedings. The judge or court shall order the person, as a condition of any suspended
10134 sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems
10135 appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be
10136 provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services,
10137 by a similar program or services available through the Department of Corrections if the court imposes a sentence
10138 of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services
10139 available through a local or regional jail, a local community-based probation services agency established
10140 pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

10141 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

10142 A. Whenever any person who has not previously been convicted of any criminal offense under this article
10143 or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant,
10144 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an
10145 offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any
10146 manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like
10147 substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to §
10148 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be
10149 directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and
10150 taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo
10151 such treatment or education for substance abuse, if available, as the judge or court deems appropriate based
10152 upon consideration of the substance abuse assessment. The treatment or education shall be provided by a
10153 program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar
10154 program or services available through the Department of Corrections if the court imposes a sentence of one
10155 year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available
10156 through a local or regional jail, a local community-based probation services agency established pursuant to §
10157 9.1-174, or an ASAP program certified by the Commission on VASAP.

10158 B. The court trying the case of any person alleged to have committed any criminal offense designated by
10159 this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the
10160 commission of the offense was motivated by or closely related to the use of drugs and determined by the court,
10161 pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may
10162 commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to
10163 any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health
10164 and Developmental Services, if space is available in such facility, for a period of time not in excess of the
10165 maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was
10166 determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such
10167 commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed
10168 may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be
10169 prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person
10170 was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to

10171 an appropriate state or local correctional facility. Upon presentation of a certified statement from the director
 10172 of the treatment facility to the effect that the confined person has successfully responded to treatment, the court
 10173 may release such confined person prior to the termination of the period of time for which such person was
 10174 confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

10175 C. The court trying a case in which commission of the criminal offense was related to the defendant's
 10176 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and
 10177 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the
 10178 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with
 10179 substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is
 10180 available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as
 10181 the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement
 10182 in a penal institution and the person so committed may be convicted of escape if he leaves the place of
 10183 commitment without authority. The court may revoke such commitment at any time and transfer the person to
 10184 an appropriate state or local correctional facility. Upon presentation of a certified statement from the director
 10185 of the treatment facility to the effect that the confined person has successfully responded to treatment, the court
 10186 may release such confined person prior to the termination of the period of time for which such person was
 10187 confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

10188 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

10189 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1, it shall be~~
 10190 ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug
 10191 classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age who is at least three years
 10192 his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in
 10193 Schedule I, II, III or IV ~~or marijuana~~. Any person violating this provision shall upon conviction be imprisoned
 10194 in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than
 10195 \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II
 10196 controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum sentence. ~~Two years of~~
 10197 ~~the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a~~
 10198 ~~mandatory minimum sentence.~~

10199 B. ~~It shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 10200 distribute any imitation controlled substance to a person under 18 years of age who is at least three years his
 10201 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled
 10202 substance. Any person violating this provision ~~shall be~~ *is* guilty of a Class 6 felony.

10203 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 10204 **administering marijuana or controlled substances to minors; penalty.**

10205 It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor
 10206 any book, pamphlet, periodical or other printed matter which he knows advertises for sale any instrument,
 10207 device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing or
 10208 growing ~~marijuana~~ or a controlled substance.

10209 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

10210 A. ~~It shall be~~ *is* unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give
 10211 or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

10212 1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any public or private
 10213 elementary or secondary school, any institution of higher education, or any clearly marked licensed child day
 10214 center as defined in § 63.2-100;

10215 1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or private
 10216 elementary or secondary school, any institution of higher education, or any clearly marked licensed child day
 10217 center as defined in § 22.1-289.02;

10218 2. Upon public property or any property open to public use within 1,000 feet of the property described in
 10219 subdivision 1;

10220 3. On any school bus as defined in § 46.2-100;

10221 4. Upon a designated school bus stop, or upon either public property or any property open to public use
 10222 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be
 10223 picked up and transported to or are being dropped off from school or a school-sponsored activity;

10224 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 10225 recreation or community center facility or any public library; or

10226 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open
 10227 to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the
 10228 person possessed the controlled substance, *or* imitation controlled substance, ~~or marijuana~~ on the property
 10229 described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the
 10230 controlled substance, *or* imitation controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the
 10231 authorized distribution of controlled substances.

10232 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
 10233 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more
 10234 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense
 10235 involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.)
 10236 ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of
 10237 one year to be served consecutively with any other sentence. However, if such person proves that he sold such
 10238 controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit
 10239 thereby from any consideration received or expected nor to induce the recipient or intended recipient of the
 10240 controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or~~
 10241 ~~marijuana~~, he is guilty of a Class 1 misdemeanor.

10242 C. If a person commits an act violating the provisions of this section, and the same act also violates another
 10243 provision of law that provides for penalties greater than those provided for by this section, then nothing in this
 10244 section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition
 10245 of any penalties provided for thereby.

10246 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

10247 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 10248 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of
 10249 the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is
 10250 frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined
 10251 in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled
 10252 substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled
 10253 substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor,
 10254 manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains
 10255 such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6
 10256 felony.

10257 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

10258 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 10259 dwelling house, apartment or building or structure of any kind which is (i) substantially altered from its original
 10260 status by means of reinforcement with the intent to impede, deter or delay lawful entry by a law-enforcement
 10261 officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances
 10262 ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any
 10263 person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

10264 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.**

10265 A. ~~It shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to
 10266 procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation,
 10267 embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by
 10268 the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.
 10269

10270 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any information
 10271 from, or willfully make a false statement in, any prescription, order, report, record, or other document required
 10272 by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

10273 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of a controlled
 10274 substance ~~or marijuana~~ a license number which is fictitious, revoked, suspended, or issued to another person.

10275 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~
 10276 to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician,
 10277 dentist, veterinarian, or other authorized person.

10278 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false or forged
 10279 written order.

10280 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
 10281 containing any controlled substance.

10282 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of
 10283 a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs
 10284 for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any
 10285 pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who
 10286 are acting in the course of their employment; provided that such manufacturer is licensed under the provisions
 10287 of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its
 10288 agents and duly authorized representatives file with the Board such information as the Board may deem
 10289 appropriate.

10290 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein ~~shall~~
 10291 ~~be~~ is guilty of a Class 6 felony.

10292 Whenever any person who has not previously been convicted of any offense under this article or under any
 10293 statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or
 10294 hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense
 10295 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for
 10296 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court
 10297 may place him on probation upon terms and conditions.

10298 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or
 10299 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the
 10300 accused. This program may be located in the judicial circuit in which the charge is brought or in any other
 10301 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by
 10302 the Department of Behavioral Health and Developmental Services. The court shall require the person entering
 10303 such program under the provisions of this section to pay all or part of the costs of the program, including the
 10304 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person
 10305 is determined by the court to be indigent.

10306 As a condition of supervised probation, the court shall require the accused to remain drug free during the
 10307 period of probation and submit to such tests during that period as may be necessary and appropriate to determine
 10308 if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and
 10309 education program to which the person is referred or by the supervising agency.

10310 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the
 10311 original arresting law-enforcement agency to submit to fingerprinting.

10312 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and
 10313 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find
 10314 the defendant guilty of a Class 1 misdemeanor.

10315 **§ 18.2-265.1. Definition.**

10316 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any
 10317 kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3
 10318 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
 10319 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,

10320 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a
 10321 controlled substance. It includes, but is not limited to:

10322 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of
 10323 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be
 10324 derived;

10325 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
 10326 processing, or preparing ~~marijuana~~ or controlled substances;

10327 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or any
 10328 species of plant ~~which~~ *that* is a controlled substance;

10329 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or
 10330 effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to determine
 10331 whether a controlled substance contains fentanyl or a fentanyl analog;

10332 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 10333 controlled substances;

10334 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
 10335 designed for use in cutting controlled substances;

10336 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in~~
 10337 ~~otherwise cleaning or refining, marijuana;~~

10338 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
 10339 compounding controlled substances;

10340 9-8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging
 10341 small quantities of ~~marijuana~~ or controlled substances;

10342 10-9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~
 10343 or controlled substances;

10344 11-10. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally
 10345 injecting controlled substances into the human body;

10346 12-11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
 10347 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

10348 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens,
 10349 ~~hashish heads,~~ or punctured metal bowls;

10350 b. Water pipes;

10351 c. Carburetion tubes and devices;

10352 d. Smoking and carburetion masks;

10353 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette,~~ that has
 10354 become too small or too short to be held in the hand;

10355 f. Miniature cocaine spoons, and cocaine vials;

10356 g. Chamber pipes;

10357 h. Carburetor pipes;

10358 i. Electric pipes;

10359 j. Air-driven pipes;

10360 k. Chillums;

10361 l. Bongs;

10362 m. Ice pipes or chillers.

10363 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

10364 In determining whether an object is drug paraphernalia, the court may consider, in addition to all other
 10365 relevant evidence, the following:

10366 1. Constitutionally admissible statements by the accused concerning the use of the object;

10367 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to
 10368 the accused;

10369 3. Instructions, oral or written, provided with the object concerning its use;

- 10370 4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;
- 10371 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 10372 6. The manner in which the object is displayed for sale;
- 10373 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed
- 10374 distributor or dealer of tobacco products;
- 10375 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business
- 10376 enterprise;
- 10377 9. The existence and scope of legitimate uses for the object in the community;
- 10378 10. Expert testimony concerning its use or the purpose for which it was designed; *and*
- 10379 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
- 10380 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in
- 10381 control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended
- 10382 for use or designed for use as drug paraphernalia.

10383 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

10384 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under

10385 circumstances where one reasonably should know, that it is either designed for use or intended by such person

10386 for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

10387 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce

10388 into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

10389 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug

10390 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6

10391 felony.

10392 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is*

10393 guilty of a Class 1 misdemeanor.

10394 *Article 1.4.*

10395 *Unlawful Possession and Consumption of Marijuana.*

10396 **§ 18.2-265.22. Possession of marijuana unlawful in certain cases; venue; exceptions; penalties;**

10397 **forfeiture; deferred proceedings; treatment and education programs and services; penalty.**

10398 A. *It is unlawful for any person under 21 years of age to knowingly or intentionally possess marijuana*

10399 *unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner*

10400 *while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control*

10401 *Act (§ 54.1-3400 et seq.).*

10402 *Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or*

10403 *vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly*

10404 *or intentionally possessed such marijuana.*

10405 B. *Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more*

10406 *than \$250 for a first offense and shall be ordered to enter a substance abuse treatment or education program,*

10407 *or both, if available, that in the opinion of the court best suits the needs of the accused. A person 18 years of*

10408 *age or older who is convicted under subsection A of a second offense is guilty of a Class 3 misdemeanor and of*

10409 *a third or subsequent offense is guilty of a Class 2 misdemeanor.*

10410 *When any person 18 years of age or older who has not previously violated subsection A or been convicted*

10411 *of a violation of former § 18.2-250.1 or a similar offense in any other state or the United States is before the*

10412 *court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a*

10413 *finding of guilt of a violation of subsection A, shall, without entering a judgment of guilt, defer further*

10414 *proceedings and place the accused on probation subject to appropriate conditions. As a term and condition,*

10415 *the court shall require the accused to enter a substance abuse treatment or education program, or both, if*

10416 *available, that in the opinion of the court best suits the needs of the accused. If the accused is placed on local*

10417 *community-based probation, the program or services shall be located in any of the judicial districts served by*

10418 *the local community-based probation services agency.*

10419 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise
 10420 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings
 10421 against the person without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a
 10422 conviction for the purpose of applying this section in any subsequent proceedings.

10423 C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$200 for a first
 10424 offense, and the court shall require the accused to enter a substance abuse treatment or education program, or
 10425 both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-
 10426 273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

10427 For a second and any subsequent violation of subsection A, such juvenile is guilty of a Class 3 misdemeanor,
 10428 and the court shall require the accused to enter a substance abuse treatment or education program, or both, if
 10429 available, that in the opinion of the court best suits the needs of the accused.

10430 D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this
 10431 section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental
 10432 Services or (ii) a program or services made available through a community-based probation services agency
 10433 established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for
 10434 the locality. When an offender is ordered to a local community-based probation services agency, the local
 10435 community-based probation services agency shall be responsible for providing for services or referring the
 10436 offender to education or treatment services as a condition of probation.

10437 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
 10438 Assessment and Treatment Fund established pursuant to § 18.2-251.02.

10439 **§ 18.2-265.23. Using or consuming marijuana while in a motor vehicle being driven upon a public**
 10440 **highway; penalty.**

10441 A. For the purposes of this section:

10442 "Open container" means any vessel containing marijuana.

10443 "Passenger area" means the area designed to seat the driver of any motor vehicle; any area within the
 10444 reach of the driver, including an unlocked glove compartment; and the area designed to seat passengers.

10445 "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of
 10446 a passenger van, station wagon, hatchback, sport utility vehicle, or any similar vehicle; the living quarters of
 10447 a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the
 10448 transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the
 10449 transportation of such persons.

10450 B. It is unlawful for any person to use or consume marijuana while driving a motor vehicle upon a public
 10451 highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public
 10452 highway of the Commonwealth.

10453 C. A judge or jury may make a permissive inference that a person has consumed marijuana in violation of
 10454 this section if (i) an open container is located within the passenger area of the motor vehicle; (ii) the marijuana
 10455 in the open container has been at least partially removed; and (iii) the appearance, conduct, speech, or other
 10456 physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana. Such
 10457 person may be prosecuted either (a) in the county or city in which the marijuana was used or consumed or (b)
 10458 in the county or city in which the person exhibits evidence of physical indicia of use or consumption of
 10459 marijuana.

10460 D. Any person who violates this section is guilty of a Class 1 misdemeanor.

10461 **§ 18.2-265.24. Consuming marijuana or offering to another, in public place; penalty.**

10462 If any person consumes marijuana or offers marijuana to another, whether accepted or not, at or in any
 10463 public place, such person is guilty of a Class 4 misdemeanor.

10464 **§ 18.2-265.25. Consuming or possessing marijuana in or on public school grounds; penalty.**

10465 A. No person shall possess or consume any marijuana in or upon the grounds of any public elementary or
 10466 secondary school during school hours or school or student activities.

10467 B. In addition, no person shall consume and no organization shall serve any marijuana in or upon the
 10468 grounds of any public elementary or secondary school after school hours or school or student activities.

- 10469 *C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.*
10470 **§ 18.2-265.26. Possessing or consuming marijuana while operating a school bus; penalty.**
10471 *Any person who possesses or consumes marijuana while operating a school bus and transporting children*
10472 *is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the same meaning as*
10473 *provided in § 46.2-100.*
10474 **§ 18.2-265.27. Limitation on carrying retail marijuana or retail marijuana products in motor vehicle**
10475 **transporting passengers for hire; penalty.**
10476 *The transportation of marijuana in any motor vehicle that is being used, or is licensed, for the*
10477 *transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who*
10478 *is being transported for compensation at the regular rate and fare charged other passengers.*
10479 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*
10480 **§ 18.2-265.28. Search without warrant; odor of marijuana.**
10481 *A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person,*
10482 *place, or thing solely on the basis of the odor of marijuana, and no evidence discovered or obtained pursuant*
10483 *to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be*
10484 *admissible in any trial, hearing, or other proceeding.*
10485 *B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation*
10486 *occurs in a commercial motor vehicle as defined in § 46.2-341.4.*
10487 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**
10488 *Any person who, while committing a crime of violence as defined in § 18.2-288-~~(2)~~ or a felony violation*
10489 *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*
10490 *body armor designed to diminish the effect of the impact of a bullet or projectile shall be is guilty of a Class 4*
10491 *felony.*
10492 **§ 18.2-308.03. Fees for concealed handgun permits.**
10493 *A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including*
10494 *his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency*
10495 *conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an*
10496 *investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau*
10497 *of Investigation for providing criminal history record information, and the local law-enforcement agency shall*
10498 *forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints*
10499 *taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs*
10500 *associated with processing the application. The total amount assessed for processing an application for a permit*
10501 *shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment*
10502 *may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be*
10503 *required until the application is received by the court as a complete application.*
10504 *B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a*
10505 *magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority*
10506 *or the Virginia Cannabis Control Authority or as a law-enforcement officer with the Department of State Police,*
10507 *the Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political*
10508 *subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-*
10509 *enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms,*
10510 *Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration*
10511 *Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals*
10512 *Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55;*
10513 *(iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District*
10514 *of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-*
10515 *enforcement officer with any combination of the agencies listed in clauses (ii) through (iii), and (iv), after*
10516 *completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United*
10517 *States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer*

10518 as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized
10519 pursuant to § 53.1-143, after completing 15 years of service.

10520 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

10521 The following persons shall be deemed disqualified from obtaining a permit:

10522 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-
10523 308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the
10524 United States.

10525 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1,
10526 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any other state or
10527 of the United States.

10528 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged
10529 from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his
10530 application for a concealed handgun permit.

10531 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency
10532 or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a
10533 concealed handgun permit.

10534 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from
10535 commitment less than five years before the date of this application for a concealed handgun permit.

10536 5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-
10537 308.1:4 from purchasing, possessing, or transporting a firearm.

10538 6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a
10539 restoration order may be obtained in accordance with subsection C of that section.

10540 7. An individual who has been convicted of two or more misdemeanors within the five-year period
10541 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge
10542 shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions
10543 and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

10544 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
10545 cannabinoids, or any controlled substance.

10546 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
10547 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the
10548 District of Columbia, the United States, or its territories within the three-year period immediately preceding the
10549 application.

10550 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

10551 11. An individual who has been discharged from the armed forces of the United States under dishonorable
10552 conditions.

10553 12. An individual who is a fugitive from justice.

10554 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the
10555 applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police,
10556 or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the
10557 opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying
10558 conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully
10559 or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the
10560 Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer,
10561 or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath
10562 before a notary public of a competent person having personal knowledge of the specific acts.

10563 14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of
10564 a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within
10565 the three-year period immediately preceding the application.

10566 15. An individual who has been convicted of stalking.

10567 16. An individual whose previous convictions or adjudications of delinquency were based on an offense
 10568 that would have been at the time of conviction a felony if committed by an adult under the laws of any state,
 10569 the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions
 10570 occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from
 10571 any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."
 10572 Disqualification under this subdivision shall not apply to an individual with previous adjudications of
 10573 delinquency who has completed a term of service of no less than two years in the Armed Forces of the United
 10574 States and, if such person has been discharged from the Armed Forces of the United States, received an
 10575 honorable discharge.

10576 17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision
 10577 14 or 15.

10578 18. An individual who has received mental health treatment or substance abuse treatment in a residential
 10579 setting within five years prior to the date of his application for a concealed handgun permit.

10580 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
 10581 immediately preceding the application for the permit, was found guilty of any criminal offense set forth in
 10582 *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or of a
 10583 criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled
 10584 substance, under the laws of any state, the District of Columbia, or the United States or its territories.

10585 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-
 10586 year period immediately preceding the application, upon a charge of any criminal offense set forth in *Chapter*
 10587 *11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or upon a charge of
 10588 illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the
 10589 laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the
 10590 facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the
 10591 substantially similar law of any other state, the District of Columbia, or the United States or its territories.

10592 **§ 18.2-308.012. Prohibited conduct.**

10593 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,
 10594 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction
 10595 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the
 10596 influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-
 10597 51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or
 10598 driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the
 10599 person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a
 10600 violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

10601 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in §
 10602 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted
 10603 by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage
 10604 while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club
 10605 and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection
 10606 shall apply to a federal, state, or local law-enforcement officer.

10607 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

10608 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

10609 1. Any State Police officer retired from the Department of State Police, any officer retired from the Division
 10610 of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired
 10611 from a police department or sheriff's office within the Commonwealth, any special agent retired from the State
 10612 Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis*
 10613 *Control Authority*, any employee with internal investigations authority designated by the Department of
 10614 Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any
 10615 conservation police officer retired from the Department of Wildlife Resources, any conservation officer retired
 10616 from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law

10617 Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed
10618 under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any
10619 retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-
10620 217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent
10621 terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any
10622 such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years
10623 of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related
10624 injury, provided such officer carries with him written proof of consultation with and favorable review of the
10625 need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from
10626 which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the
10627 State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis*
10628 *Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief,
10629 Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information
10630 Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired
10631 law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who
10632 receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation
10633 upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement
10634 agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia
10635 Criminal Information Network. However, if such officer retires on disability because of the service-related
10636 injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he
10637 may retain the previously issued written proof of consultation.

10638 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency,
10639 commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-
10640 enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized
10641 under Title 51.1, provided such person carries with him written proof of consultation with and favorable review
10642 of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which
10643 he resigned or, in the case of special agents, issued by the State Corporation Commission~~or~~, the Virginia
10644 Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of
10645 consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of
10646 State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
10647 not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements
10648 of this section.

10649 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services
10650 of the United States or National Guard, while such officer is called to active military duty, provided such officer
10651 carries with him written proof of consultation with and favorable review of the need to carry a concealed
10652 handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be
10653 valid as long as the officer is on active military duty and shall expire when the officer returns to active law-
10654 enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the
10655 Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold
10656 such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-
10657 enforcement duty.

10658 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who
10659 (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during
10660 the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training
10661 for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation
10662 with and favorable review of the need to carry a concealed handgun issued by the attorney for the
10663 Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired
10664 law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. §
10665 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the
10666 Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

10667 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or
 10668 resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant
 10669 attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall
 10670 have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the
 10671 same training and testing to carry firearms as is required of active law-enforcement officers in the
 10672 Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification
 10673 standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one
 10674 year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency
 10675 to carry a firearm.

10676 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
 10677 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review
 10678 pursuant to this section may annually participate and meet the training and qualification standards to carry
 10679 firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned
 10680 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall
 10681 issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the
 10682 retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the
 10683 certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry
 10684 a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the
 10685 Department of State Police for entry into the Virginia Criminal Information Network.

10686 D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any
 10687 person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of
 10688 consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

10689 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses**
 10690 **prohibited.**

10691 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses
 10692 under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, subsection B of former § 18.2-248.1:1, or § 18.2-250 ~~or 18.2-~~
 10693 ~~250.1~~ shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years
 10694 from the date of the second conviction and provided the person has not been convicted of any such offense
 10695 within that period, the ineligibility shall be removed.

10696 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

10697 A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in
 10698 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge
 10699 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and
 10700 distinct felony.

10701 B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in
 10702 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent
 10703 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a
 10704 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum
 10705 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run
 10706 consecutively with, any punishment received for the commission of the primary felony.

10707 C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other
 10708 firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal
 10709 manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled
 10710 substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than~~
 10711 ~~one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct
 10712 felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment
 10713 of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with,
 10714 any punishment received for the commission of the primary felony.

10715 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**
 10716 **alternative nicotine products, and hemp products intended for smoking by a person younger than 21**

10717 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp
10718 products intended for smoking to persons younger than 21 years of age.

10719 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less~~
10720 *younger* than 21 years of age, knowing or having reason to believe that such person is ~~less~~ *younger* than 21
10721 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product
10722 intended for smoking.

10723 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for
10724 smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous
10725 manner and place, indicating that the purchase or possession of such products by persons ~~under~~ *younger than*
10726 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally
10727 accessible to persons ~~under~~ *younger than* 21 years of age. An establishment that prohibits the presence of
10728 persons ~~under~~ *younger than* 21 years of age unless accompanied by a person 21 years of age or older is not
10729 open to the general public.

10730 B. No person ~~less~~ *younger* than 21 years of age shall attempt to purchase, purchase, or possess any tobacco
10731 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The
10732 provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor
10733 products, alternative nicotine products, or hemp products intended for smoking by a person ~~less~~ *younger* than
10734 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products,
10735 or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being
10736 conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use
10737 prevention and cessation and tobacco product regulation, provided that such medical research has been
10738 approved by an institutional review board pursuant to applicable federal regulations or by a research review
10739 committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to
10740 purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is
10741 necessary in the performance of his duties.

10742 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or hemp
10743 product intended for smoking to any individual who does not demonstrate, by producing a driver's license or
10744 similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such
10745 identification is not required from an individual whom the person has reason to believe is at least 21 years of
10746 age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and
10747 reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a
10748 defense to any action brought under this subsection. In determining whether a person had reason to believe an
10749 individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general
10750 appearance, facial characteristics, behavior, and manner of the individual.

10751 This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco
10752 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale
10753 through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, alternative
10754 nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21 years of age
10755 through a commercially available database that is regularly used by businesses or governmental entities for the
10756 purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires
10757 the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative
10758 nicotine product, or hemp product intended for smoking will be released to the purchaser.

10759 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco
10760 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any
10761 active duty military personnel who are 18 years of age or older. An identification card issued by the Armed
10762 Forces of the United States shall be accepted as proof of age for this purpose.

10763 E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a
10764 nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product
10765 other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to
10766 exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

10767 A violation of subsection A or C by an individual or by a separate retail establishment that involves the
10768 sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation,
10769 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
10770 third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its
10771 employees concerning the requirements of this section, the court shall suspend all of the penalties imposed
10772 hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the
10773 court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation
10774 of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended
10775 for smoking, or tobacco product other than a bidi.

10776 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a
10777 civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil
10778 penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service
10779 for a first violation of subsection B and up to 40 hours of community service for a second or subsequent
10780 violation. If the defendant fails or refuses to complete the community service as prescribed, the court may
10781 impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision
10782 A 9 of § 16.1-278.8.

10783 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring
10784 an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer
10785 may issue a summons for a violation of subsection A, B, or C.

10786 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by
10787 the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for
10788 sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
10789 smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco
10790 products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any
10791 person ~~under~~ younger than 21 years of age is prohibited by law. Any attorney for the county, city, or town in
10792 which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a
10793 civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee
10794 or cost shall be charged to the county, city, or town which instituted the action.

10795 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
10796 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
10797 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
10798 such regulations.

10799 3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
10800 enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be
10801 paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which
10802 instituted the action.

10803 G. Nothing in this section shall be construed to create a private cause of action.

10804 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
10805 issue a summons for any violation of this section.

10806 I. As used in this section:

10807 "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for
10808 human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative
10809 nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug
10810 or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the
10811 Federal Food, Drug, and Cosmetic Act.

10812 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or
10813 tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or
10814 beedie.

10815 "Hemp product *intended for smoking*" means the same as that term is defined in § 3.2-4112.

10816 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating
 10817 element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of
 10818 shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor
 10819 product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar
 10820 product or device and any cartridge or other container of nicotine in a solution or other form that is intended to
 10821 be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product
 10822 or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21
 10823 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

10824 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco,
 10825 pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative
 10826 nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the
 10827 Federal Food, Drug, and Cosmetic Act.

10828 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking
 10829 in a manner similar to a cigarette or cigar.

10830 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

10831 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the
 10832 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-
 10833 6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction
 10834 when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-
 10835 enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1
 10836 misdemeanor.

10837 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 10838 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
 10839 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his
 10840 duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
 10841 misdemeanor.

10842 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,
 10843 magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully
 10844 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating
 10845 to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3), (b) or (c) of § 18.2-248.1, or §, 18.2-
 10846 46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony offense listed in
 10847 subsection C of § 17.1-805, he is guilty of a Class 5 felony.

10848 D. Any person who knowingly and willfully makes any materially false statement or representation to a
 10849 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of
 10850 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

10851 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully
 10852 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,
 10853 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer
 10854 when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he
 10855 is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person
 10856 under arrest, and (b) a reasonable person who receives such communication knows or should know that he is
 10857 not free to leave.

10858 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

10859 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver, attempt
 10860 to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth
 10861 of Virginia, or of any political subdivision thereof, or to any person committed to the Department of Juvenile
 10862 Justice in any juvenile correctional center, any drug which is a controlled substance regulated by the Drug
 10863 Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is guilty of a Class 5 felony. Any
 10864 person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such

10865 prisoner or confined or committed person, firearms, ammunitions, or explosives of any nature is guilty of a
 10866 Class 3 felony.

10867 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

10868 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
 10869 **authorizing interception of communications.**

10870 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
 10871 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in
 10872 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of
 10873 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by
 10874 the Department of State Police, when such interception may reasonably be expected to provide evidence of the
 10875 commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-
 10876 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
 10877 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-
 10878 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
 10879 seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney
 10880 General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the
 10881 interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of
 10882 the United States. Such application shall be made, and such order may be granted, in conformity with the
 10883 provisions of § 19.2-68.

10884 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

10885 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall
 10886 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
 10887 offense was committed, is being committed, or will be committed or the person or persons whose
 10888 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,
 10889 maintain an address or a post office box, or are making the communication within the territorial jurisdiction of
 10890 the court.

10891 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the
 10892 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense
 10893 was committed, is being committed, or will be committed or the physical location of the oral communication
 10894 to be intercepted is within the territorial jurisdiction of the court.

10895 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire
 10896 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where
 10897 the order is entered, regardless of the physical location or the method by which the communication is captured
 10898 or routed to the monitoring location.

10899 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

10900 A. The following officers shall have the powers of arrest as provided in this section:

10901 1. Members of the State Police force of the Commonwealth;
 10902 2. Sheriffs of the various counties and cities, and their deputies;
 10903 3. Members of any county police force or any duly constituted police force of any city or town of the
 10904 Commonwealth;

10905 4. The Commissioner, members and employees of the Marine Resources Commission granted the power
 10906 of arrest pursuant to § 28.2-900;

10907 5. Regular conservation police officers appointed pursuant to § 29.1-200;

10908 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty
 10909 officers authorized under § 29.1-205 to make arrests;

10910 7. Conservation officers appointed pursuant to § 10.1-115;

10911 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed
 10912 pursuant to § 46.2-217;

10913 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*
 10914 *Authority*;

10915 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
10916 11. Members of the Division of Capitol Police.

10917 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the
10918 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a
10919 felony not in his presence.

10920 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of
10921 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a
10922 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order
10923 issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer,
10924 who may obtain a warrant based upon statements made to him by the arresting officer.

10925 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in §
10926 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident
10927 has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any
10928 of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal
10929 investigation, including information obtained from eyewitnesses, that a crime has been committed by any
10930 person then and there present, apprehend such person without a warrant of arrest. For purposes of this section,
10931 "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident
10932 has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to
10933 ensure the safety of the motoring public.

10934 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any
10935 person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or
10936 motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738;
10937 or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the
10938 offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense,
10939 arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating
10940 a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense
10941 was committed in such officer's presence.

10942 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another
10943 jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile printout,
10944 a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile
10945 printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of
10946 such person wanted and the crime alleged.

10947 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in his
10948 presence when the officer receives a radio message from his department or other law-enforcement agency within
10949 the Commonwealth that a warrant or capias for such offense is on file.

10950 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their
10951 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying
10952 a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in
10953 violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located
10954 on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is
10955 based on probable cause upon reasonable complaint of the person who observed the alleged offense. The
10956 arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation
10957 involving shoplifting.

10958 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

10959 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,
10960 persons for crimes involving:

10961 (a) The escape of an inmate from a correctional institution, as defined in § 53.1-1;

10962 (b) Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;

10963 (c) The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474 or § 18.2-474.1; and

10964 (d) Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security
 10965 of the population of a correctional institution.

10966 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

10967 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or
 10968 conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or
 10969 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other
 10970 employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an
 10971 equivalent offense in another state shall file a report of such arrest with the division superintendent of the
 10972 employing division as soon as practicable. The contents of the report required pursuant to this section shall be
 10973 utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and §
 10974 22.1-315.

10975 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or
 10976 conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with
 10977 the division superintendent of the school division in which the student is enrolled upon arresting a person who
 10978 is known or discovered by the arresting official to be a student age 18 or older in any public school division in
 10979 this Commonwealth for:

- 10980 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.),
- 10981 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 10982 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 10983 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
- 10984 18.2;
- 10985 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 10986 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
- 10987 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 10988 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ *Chapter 11* (§ ~~18.2-247 4.1-1100~~ *4.1-1100* et
- 10989 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~
- 10990 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 10991 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 10992 9. Robbery pursuant to § 18.2-58;
- 10993 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 10994 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
- 10995 12. An act of violence by a mob pursuant to § 18.2-42.1; or
- 10996 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

10997 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

10998 A. In any preliminary hearing on a violation of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1*, Article 1 (§
 10999 18.2-247 et seq.) of Chapter 7 of Title 18.2, or a violation of subdivision 6 of § 53.1-203, any law-enforcement
 11000 officer shall be permitted to testify as to the results of field tests that have been approved by the Department of
 11001 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-
 11002 4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a
 11003 controlled substance, imitation controlled substance, or marijuana, as defined in ~~§~~ §§ *4.1-600 and 18.2-247*.

11004 B. In any trial for a violation of ~~§ 18.2-250.1 4.1-1104 or 4.1-1105~~, any law-enforcement officer shall be
 11005 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the
 11006 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process
 11007 Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is
 11008 marijuana provided the defendant has been given written notice of his right to request a full chemical analysis.
 11009 Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to
 11010 trial.

11011 In any case in which the person accused of a violation of ~~§ 18.2-250.1 4.1-1104 or 4.1-1105~~, or the attorney
 11012 of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior
 11013 to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion,

11014 the court shall order that the analysis be performed by the Department of Forensic Science in accordance with
11015 the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of
11016 evidence submitted for chemical analysis.

11017 **§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood,**
11018 **saliva, or tissue sample as condition of probation.**

11019 After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend
11020 the sentence in whole or part and in addition may place the defendant on probation under such conditions as the
11021 court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other
11022 similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial
11023 restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or
11024 to perform community service, or both, under terms and conditions which shall be entered in writing by the
11025 court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar
11026 device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the
11027 court shall file a statement of the reasons for the suspension or modification in the same manner as the statement
11028 required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense
11029 for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of §
11030 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information
11031 has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where
11032 fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the
11033 clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer
11034 as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense.
11035 Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of
11036 subsection D of § 19.2-390.

11037 In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom,
11038 prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva,
11039 or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the
11040 Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any
11041 case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in
11042 any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the
11043 defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer
11044 to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the
11045 sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or
11046 probation officer shall report to the court the defendant's failure to appear and provide the required sample.

11047 After conviction and upon sentencing of an active participant or member of a criminal street gang, the court
11048 may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused
11049 on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such
11050 restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a
11051 member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-
11052 228, shall be permitted unless expressly prohibited by the court.

11053 In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-
11054 67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence
11055 is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to
11056 the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned,
11057 and the defendant shall be placed on probation for that period of suspension subject to revocation by the court.
11058 The conditions of probation may include such conditions as the court shall determine, including active
11059 supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A
11060 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation
11061 include active supervision of the defendant under a postrelease supervision program operated by the Department
11062 of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic
11063 monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

11064 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time
11065 before the sentence has been completely served, suspend the unserved portion of any such sentence, place the
11066 person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

11067 If a person has been sentenced for a felony to the Department of Corrections but has not actually been
11068 transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with
11069 the public interest and there are circumstances in mitigation of the offense, may, at any time before the person
11070 is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The
11071 court may place the person on probation for such time as the court shall determine.

11072 *Notwithstanding any other provision of law or rule of court, any person who has been sentenced to jail or*
11073 *to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision (a) (3) of*
11074 *former § 18.2-248.1, (ii) a violation of subsection (d) of former § 18.2-248.1, or (iii) a violation of former §*
11075 *18.2-248.1 where the defendant gave, distributed, or possessed with intent to give or distribute marijuana to a*
11076 *minor, may, at any time before the sentence has been completely served, file a motion with the court that heard*
11077 *the case for a resentencing hearing. If it appears compatible with the public interest and there are*
11078 *circumstances in mitigation of the offense, including the legalization of marijuana, such court may reduce,*
11079 *suspend, or otherwise modify such person's sentence at any time before such person's sentence has been*
11080 *completely served. If the petitioner claims to be indigent, the petitioner shall additionally file with the court a*
11081 *statement of indigency and a request for the appointment of counsel on forms provided by the Supreme Court*
11082 *of Virginia. If the petition is not summarily dismissed and the court finds that the petitioner is entitled to*
11083 *representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10 of Title 19.2,*
11084 *the court shall appoint counsel to represent the petitioner.*

11085 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

11086 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
11087 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the
11088 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an
11089 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
11090 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,
11091 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
11092 any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy
11093 to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or
11094 accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has
11095 provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's
11096 evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the
11097 Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of
11098 any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance;
11099 (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance;
11100 and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the
11101 final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1)
11102 information not known to the defendant until more than one year after entry of the final judgment order, (2)
11103 information provided by the defendant within one year of entry of the final judgment order but that did not
11104 become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
11105 information the usefulness of which could not reasonably have been anticipated by the defendant until more
11106 than one year after entry of the final judgment order and which was promptly provided to the Commonwealth
11107 by the defendant after its usefulness was reasonably apparent.

11108 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

11109 A. The following property shall be subject to lawful seizure by any officer charged with enforcing the
11110 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*
11111 *18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other*
11112 *personal and real property of any kind or character, used in substantial connection with (a) the illegal*
11113 *manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute*

11114 controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with~~
 11115 ~~intent to distribute marijuana~~ in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1 4.1-1103, or (c)
 11116 a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or intended
 11117 to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation
 11118 of § 18.2-248.1 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1;
 11119 and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest
 11120 or profits derived from the investment of such money or other property. Under the provisions of clause (i), real
 11121 property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a
 11122 term of not less than five years.

11123 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter
 11124 22.1 (§ 19.2-386.1 et seq.).

11125 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

11126 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
 11127 possession of which is not established or the title to which cannot be ascertained, which have come into the
 11128 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et seq.)
 11129 of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

11130 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,
 11131 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such
 11132 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such
 11133 police department or sheriff's office for research and training purposes and for destruction pursuant to
 11134 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of
 11135 Pharmacy once these purposes have been fulfilled.

11136 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such
 11137 substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia,
 11138 the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia
 11139 was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that
 11140 paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or
 11141 entity that makes a showing to the court of sufficient need for the property and an ability to put the property to
 11142 a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction
 11143 shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall
 11144 be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as
 11145 evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency
 11146 recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that
 11147 are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee
 11148 may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same;
 11149 provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and
 11150 the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom
 11151 the order is directed.

11152 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§
 11153 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 provided by
 11154 this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

11155 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-
 11156 enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25
 11157 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation
 11158 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting
 11159 agency's exceeding the limits allowed by this subsection.

11160 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
 11161 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of
 11162 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)
 11163 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes.

11164 A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the
11165 agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were
11166 used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of
11167 such substance shall be certified to the court along with a statement prepared under oath, reporting a description
11168 of the substance destroyed, and the time, place, and manner of destruction.

11169 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

11170 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with
11171 any prosecution or investigation under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et*
11172 *seq.) of Title 18.2*, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly
11173 selected from the seized substance for representative purposes as evidence and destroy the remainder of the
11174 seized substance.

11175 Before any destruction is carried out under this section, the law-enforcement agency shall cause the material
11176 seized to be photographed with identification case numbers or other means of identification and shall prepare a
11177 report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his
11178 attorney, at least five days in advance that the photography will take place and that they may be present. Prior
11179 to any destruction under this section, the law-enforcement agency shall also notify the accused or other
11180 interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the
11181 destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to
11182 the last known address of the person required to be notified. In addition to the substance retained for
11183 representative purposes as evidence, all photographs and records made under this section and properly identified
11184 shall be admissible in any court proceeding for any purposes for which the seized substance itself would have
11185 been admissible.

11186 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
11187 **substances, etc.**

11188 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take
11189 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled
11190 substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter*
11191 *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
11192 make provision for ensuring integrity of these items until further order of the court.

11193 **§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.**

11194 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
11195 only to:

11196 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
11197 the administration of criminal justice and the screening of an employment application or review of employment
11198 by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia
11199 Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose
11200 of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective
11201 dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record
11202 information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and
11203 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department
11204 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,
11205 and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
11206 highway laws of the Commonwealth for the purposes of the administration of criminal justice;

11207 2. Such other individuals and agencies that require criminal history record information to implement a state
11208 or federal statute or executive order of the President of the United States or Governor that expressly refers to
11209 criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that
11210 information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or
11211 individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has
11212 been recorded and no active prosecution of the charge is pending;

- 11213 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
11214 services required for the administration of criminal justice pursuant to that agreement which shall specifically
11215 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
11216 confidentiality of the data;
- 11217 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
11218 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
11219 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;
- 11220 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
11221 of the President of the United States or Governor to conduct investigations determining employment suitability
11222 or eligibility for security clearances allowing access to classified information;
- 11223 6. Individuals and agencies where authorized by court order or court rule;
- 11224 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
11225 operated or controlled by any political subdivision, and any public service corporation that operates a public
11226 transit system owned by a local government for the conduct of investigations of applicants for employment,
11227 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly
11228 enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with
11229 the nature of the employment, permit, or license under consideration;
- 11230 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
11231 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of
11232 employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District
11233 Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would
11234 be compatible with the nature of the employment under consideration;
- 11235 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
11236 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that
11237 individual's household, with whom the agency is considering placing a child or from whom the agency is
11238 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant
11239 to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any
11240 party other than a federal or state authority or court as may be required to comply with an express requirement
11241 of law;
- 11242 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
11243 the conduct of investigations of applicants for employment when such employment involves personal contact
11244 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
11245 employment under consideration;
- 11246 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
11247 including, but not limited to, issuing visas and passports;
- 11248 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
11249 his cost, except that criminal history record information shall be supplied at no charge to a person who has
11250 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire
11251 company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
11252 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
11253 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in §
11254 15.2-1713.1;
- 11255 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
11256 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
11257 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
11258 facilities, caretakers, and other adults living in family day homes or homes approved by family day systems,
11259 and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-
11260 1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further
11261 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social

- 11262 Services' representative or a federal or state authority or court as may be required to comply with an express
11263 requirement of law for such further dissemination;
- 11264 13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
11265 who accept public school employment and those current school board employees for whom a report of arrest
11266 has been made pursuant to § 19.2-83.1;
- 11267 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-
11268 4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department
11269 of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-
11270 340.15 et seq.) of Chapter 8 of Title 18.2;
- 11271 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
11272 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
11273 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
11274 limitations set out in subsection E;
- 11275 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations
11276 of applicants for compensated employment in licensed assisted living facilities and licensed adult day care
11277 centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
- 11278 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in §
11279 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622*;
- 11280 18. The State Board of Elections and authorized officers and employees thereof and general registrars
11281 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
11282 registration, limited to any record of felony convictions;
- 11283 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are
11284 committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3,
11285 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
- 11286 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
11287 Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under
11288 § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
- 11289 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
11290 Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose
11291 of determining applicants' fitness for employment or for providing volunteer or contractual services;
- 11292 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
11293 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
11294 instructions;
- 11295 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
11296 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
11297 information on behalf of such governing boards or administrators pursuant to a written agreement with the
11298 Department of State Police;
- 11299 24. Public institutions of higher education and nonprofit private institutions of higher education for the
11300 purpose of screening individuals who are offered or accept employment;
- 11301 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
11302 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
11303 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
11304 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
11305 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
11306 that such disclosure was made to the threat assessment team;
- 11307 26. Executive directors of community services boards or the personnel director serving the community
11308 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
11309 residential service provider, or permission to enter into a shared living arrangement with a person receiving
11310 medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

11311 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
11312 determining an individual's fitness for employment, approval as a sponsored residential service provider, or
11313 permission to enter into a shared living arrangement with a person receiving medical assistance services
11314 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

11315 28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who
11316 are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address,
11317 demographics and social security number of the data subject shall be released;

11318 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter
11319 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of
11320 determining if any applicant who accepts employment in any direct care position or requests approval as a
11321 sponsored residential service provider or permission to enter into a shared living arrangement with a person
11322 receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness
11323 to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
11324 substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

11325 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
11326 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
11327 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

11328 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the
11329 purpose of determining if any person being considered for election to any judgeship has been convicted of a
11330 crime;

11331 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
11332 determining an individual's fitness for employment in positions designated as sensitive under Department of
11333 Human Resource Management policies developed pursuant to § 2.2-1201.1;

11334 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
11335 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
11336 Predators Act (§ 37.2-900 et seq.);

11337 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
11338 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the
11339 conduct of investigations of applications for employment or for access to facilities, by contractors, leased
11340 laborers, and other visitors;

11341 35. Any employer of individuals whose employment requires that they enter the homes of others, for the
11342 purpose of screening individuals who apply for, are offered, or have accepted such employment;

11343 36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
11344 of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing
11345 an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction
11346 that the data shall not be further disseminated by the agency to any party other than a federal or state authority
11347 or court as may be required to comply with an express requirement of law for such further dissemination, subject
11348 to limitations set out in subsection G;

11349 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
11350 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
11351 have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program
11352 or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by
11353 the Department of Medical Assistance Services;

11354 38. The State Corporation Commission for the purpose of investigating individuals who are current or
11355 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
11356 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of
11357 law, if an application is denied based in whole or in part on information obtained from the Central Criminal
11358 Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his
11359 designee may disclose such information to the applicant or its designee;

11360 39. The Department of Professional and Occupational Regulation for the purpose of investigating
11361 individuals for initial licensure pursuant to § 54.1-2106.1;

11362 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
11363 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
11364 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
11365 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

11366 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

11367 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
11368 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

11369 43. The Department of Social Services and directors of local departments of social services for the purpose
11370 of screening individuals seeking to enter into a contract with the Department of Social Services or a local
11371 department of social services for the provision of child care services for which child care subsidy payments
11372 may be provided;

11373 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
11374 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
11375 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

11376 45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
11377 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

11378 46. Other entities as otherwise provided by law.

11379 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
11380 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
11381 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
11382 whom a report has been made under the provisions of this chapter.

11383 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before
11384 an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice
11385 agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data
11386 covering the person named in the request to the person making the request; however, such person on whom the
11387 data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a
11388 copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the
11389 event no conviction data is maintained on the data subject, the person making the request shall be furnished at
11390 his cost a certification to that effect.

11391 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
11392 section shall be limited to the purposes for which it was given and may not be disseminated further.

11393 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
11394 record information for employment or licensing inquiries except as provided by law.

11395 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
11396 prior to dissemination of any criminal history record information on offenses required to be reported to the
11397 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries
11398 of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and
11399 the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency
11400 to whom a request has been made for the dissemination of criminal history record information that is required
11401 to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records
11402 Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported
11403 to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-
11404 1722.

11405 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
11406 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any
11407 offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

11408 F. Criminal history information provided to licensed assisted living facilities and licensed adult day care
11409 centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense
11410 specified in § 63.2-1720.

11411 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited
11412 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
11413 crime in § 19.2-392.02.

11414 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
11415 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
11416 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
11417 request to the employer or prospective employer making the request, provided that the person on whom the data
11418 is being obtained has consented in writing to the making of such request and has presented a photo-identification
11419 to the employer or prospective employer. In the event no conviction data is maintained on the person named in
11420 the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that
11421 effect. The criminal history record search shall be conducted on forms provided by the Exchange.

11422 I. Nothing in this section shall preclude the dissemination of a person's criminal history record information
11423 pursuant to the rules of court for obtaining discovery or for review by the court.

11424 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

11425 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
11426 only to:

11427 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
11428 the administration of criminal justice and the screening of an employment application or review of employment
11429 by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia
11430 Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose
11431 of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective
11432 dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record
11433 information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and
11434 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department
11435 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,
11436 and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
11437 highway laws of the Commonwealth for the purposes of the administration of criminal justice;

11438 2. Such other individuals and agencies that require criminal history record information to implement a state
11439 or federal statute or executive order of the President of the United States or Governor that expressly refers to
11440 criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that
11441 information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or
11442 individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has
11443 been recorded and no active prosecution of the charge is pending;

11444 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
11445 services required for the administration of criminal justice pursuant to that agreement which shall specifically
11446 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
11447 confidentiality of the data;

11448 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
11449 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
11450 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

11451 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
11452 of the President of the United States or Governor to conduct investigations determining employment suitability
11453 or eligibility for security clearances allowing access to classified information;

11454 6. Individuals and agencies where authorized by court order or court rule;

11455 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
11456 operated or controlled by any political subdivision, and any public service corporation that operates a public
11457 transit system owned by a local government for the conduct of investigations of applicants for employment,

11458 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly
11459 enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with
11460 the nature of the employment, permit, or license under consideration;

11461 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
11462 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of
11463 employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District
11464 Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would
11465 be compatible with the nature of the employment under consideration;

11466 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
11467 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that
11468 individual's household, with whom the agency is considering placing a child or from whom the agency is
11469 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant
11470 to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any
11471 party other than a federal or state authority or court as may be required to comply with an express requirement
11472 of law;

11473 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
11474 the conduct of investigations of applicants for employment when such employment involves personal contact
11475 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
11476 employment under consideration;

11477 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
11478 including, but not limited to, issuing visas and passports;

11479 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
11480 his cost, except that criminal history record information shall be supplied at no charge to a person who has
11481 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire
11482 company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
11483 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
11484 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in §
11485 15.2-1713.1;

11486 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
11487 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
11488 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
11489 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§
11490 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated
11491 by the facility or agency to any party other than the data subject, the Commissioner of Social Services'
11492 representative or a federal or state authority or court as may be required to comply with an express requirement
11493 of law for such further dissemination;

11494 13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
11495 who accept public school employment and those current school board employees for whom a report of arrest
11496 has been made pursuant to § 19.2-83.1;

11497 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-
11498 4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department
11499 of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-
11500 340.15 et seq.) of Chapter 8 of Title 18.2;

11501 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
11502 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
11503 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
11504 limitations set out in subsection E;

11505 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations
11506 of applicants for compensated employment in licensed assisted living facilities and licensed adult day care
11507 centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

- 11508** 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in §
11509 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622;*
11510 18. The State Board of Elections and authorized officers and employees thereof and general registrars
11511 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
11512 registration, limited to any record of felony convictions;
11513 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are
11514 committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3,
11515 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
11516 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
11517 Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under
11518 § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
11519 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
11520 Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose
11521 of determining applicants' fitness for employment or for providing volunteer or contractual services;
11522 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
11523 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
11524 instructions;
11525 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
11526 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
11527 information on behalf of such governing boards or administrators pursuant to a written agreement with the
11528 Department of State Police;
11529 24. Public institutions of higher education and nonprofit private institutions of higher education for the
11530 purpose of screening individuals who are offered or accept employment;
11531 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
11532 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
11533 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
11534 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
11535 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
11536 that such disclosure was made to the threat assessment team;
11537 26. Executive directors of community services boards or the personnel director serving the community
11538 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
11539 residential service provider, or permission to enter into a shared living arrangement with a person receiving
11540 medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
11541 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
11542 determining an individual's fitness for employment, approval as a sponsored residential service provider, or
11543 permission to enter into a shared living arrangement with a person receiving medical assistance services
11544 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
11545 28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who
11546 are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address,
11547 demographics and social security number of the data subject shall be released;
11548 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter
11549 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of
11550 determining if any applicant who accepts employment in any direct care position or requests approval as a
11551 sponsored residential service provider or permission to enter into a shared living arrangement with a person
11552 receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness
11553 to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
11554 substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;
11555 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
11556 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
11557 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

- 11558** 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the
11559 purpose of determining if any person being considered for election to any judgeship has been convicted of a
11560 crime;
- 11561** 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
11562 determining an individual's fitness for employment in positions designated as sensitive under Department of
11563 Human Resource Management policies developed pursuant to § 2.2-1201.1;
- 11564** 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
11565 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
11566 Predators Act (§ 37.2-900 et seq.);
- 11567** 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
11568 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the
11569 conduct of investigations of applications for employment or for access to facilities, by contractors, leased
11570 laborers, and other visitors;
- 11571** 35. Any employer of individuals whose employment requires that they enter the homes of others, for the
11572 purpose of screening individuals who apply for, are offered, or have accepted such employment;
- 11573** 36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
11574 of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing
11575 an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction
11576 that the data shall not be further disseminated by the agency to any party other than a federal or state authority
11577 or court as may be required to comply with an express requirement of law for such further dissemination, subject
11578 to limitations set out in subsection G;
- 11579** 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
11580 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
11581 have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program
11582 or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by
11583 the Department of Medical Assistance Services;
- 11584** 38. The State Corporation Commission for the purpose of investigating individuals who are current or
11585 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
11586 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.
11587 Notwithstanding any other provision of law, if an application is denied based in whole or in part on information
11588 obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the
11589 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its
11590 designee;
- 11591** 39. The Department of Professional and Occupational Regulation for the purpose of investigating
11592 individuals for initial licensure pursuant to § 54.1-2106.1;
- 11593** 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
11594 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
11595 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
11596 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
- 11597** 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
- 11598** 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
11599 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
- 11600** 43. The Department of Education or its agents or designees for the purpose of screening individuals seeking
11601 to enter into a contract with the Department of Education or its agents or designees for the provision of child
11602 care services for which child care subsidy payments may be provided;
- 11603** 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
11604 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
11605 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
- 11606** 45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
11607 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

11608 46. Administrators and board presidents of and applicants for licensure or registration as a child day
11609 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
11610 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
11611 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through
11612 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency
11613 to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal
11614 or state authority or court as may be required to comply with an express requirement of law for such further
11615 dissemination; and

11616 47. Other entities as otherwise provided by law.

11617 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
11618 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
11619 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
11620 whom a report has been made under the provisions of this chapter.

11621 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before
11622 an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice
11623 agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data
11624 covering the person named in the request to the person making the request; however, such person on whom the
11625 data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a
11626 copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the
11627 event no conviction data is maintained on the data subject, the person making the request shall be furnished at
11628 his cost a certification to that effect.

11629 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
11630 section shall be limited to the purposes for which it was given and may not be disseminated further.

11631 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
11632 record information for employment or licensing inquiries except as provided by law.

11633 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
11634 prior to dissemination of any criminal history record information on offenses required to be reported to the
11635 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries
11636 of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and
11637 the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency
11638 to whom a request has been made for the dissemination of criminal history record information that is required
11639 to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records
11640 Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported
11641 to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-
11642 1722.

11643 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
11644 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any
11645 offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

11646 F. Criminal history information provided to licensed assisted living facilities and licensed adult day care
11647 centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense
11648 specified in § 63.2-1720.

11649 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited
11650 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
11651 crime in § 19.2-392.02.

11652 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
11653 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
11654 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
11655 request to the employer or prospective employer making the request, provided that the person on whom the data
11656 is being obtained has consented in writing to the making of such request and has presented a photo-identification
11657 to the employer or prospective employer. In the event no conviction data is maintained on the person named in

11658 the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that
 11659 effect. The criminal history record search shall be conducted on forms provided by the Exchange.

11660 I. Nothing in this section shall preclude the dissemination of a person's criminal history record information
 11661 pursuant to the rules of court for obtaining discovery or for review by the court.

11662 **§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and**
 11663 **organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

11664 A. For purposes of this section:

11665 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1,
 11666 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 violation of § 18.2-
 11667 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, or 18.2-46.7; any violation
 11668 of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51,
 11669 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-
 11670 54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2,
 11671 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any
 11672 violation of § 18.2-61, 18.2-63, 18.2-64.1, 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,
 11673 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 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-
 11674 83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280,
 11675 18.2-281, 18.2-282, 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,
 11676 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355,
 11677 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366,
 11678 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, 18.2-371.1, 18.2-
 11679 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 felony violation of §
 11680 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-
 11681 423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480,
 11682 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of
 11683 another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any
 11684 substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-
 11685 1114, 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-
 11686 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 under
 11687 the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense
 11688 under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's
 11689 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901,
 11690 including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-
 11691 182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register
 11692 with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar
 11693 offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes
 11694 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)
 11695 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of
 11696 the conviction.

11697 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
 11698 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
 11699 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the
 11700 barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the
 11701 charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier
 11702 crime.

11703 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to
 11704 children or the elderly or disabled.

11705 "Department" means the Department of State Police.

11706 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
 11707 to volunteer for a qualified entity.

11708 "Identification document" means a document made or issued by or under the authority of the United States
11709 government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign
11710 government, an international governmental or an international quasi-governmental organization that, when
11711 completed with information concerning a particular individual, is of a type intended or commonly accepted for
11712 the purpose of identification of individuals.

11713 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
11714 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
11715 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
11716 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

11717 "Qualified entity" means a business or organization that provides care to children or the elderly or disabled,
11718 whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to
11719 subdivision A 7 of § 63.2-1715.

11720 B. A qualified entity may request the Department of State Police to conduct a national criminal background
11721 check on any provider who is employed by such entity. No qualified entity may request a national criminal
11722 background check on a provider until such provider has:

11723 1. Been fingerprinted; and

11724 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
11725 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever
11726 been convicted of or is the subject of pending charges for a criminal offense within or outside the
11727 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars
11728 of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to
11729 the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and
11730 completeness of any information contained in any such report, and to obtain a prompt determination as to the
11731 validity of such challenge before a final determination is made by the Department; and (v) a notice to the
11732 provider that prior to the completion of the background check the qualified entity may choose to deny the
11733 provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

11734 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
11735 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
11736 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
11737 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall
11738 access the national criminal history background check system, which is maintained by the Federal Bureau of
11739 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
11740 Criminal Records Exchange maintained by the Department. If the Department receives a background report
11741 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping
11742 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
11743 to a qualified entity's inquiry within 15 business days.

11744 D. Any background check conducted pursuant to this section for a provider employed by a private entity
11745 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
11746 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
11747 in a position that involves unsupervised access to children or the elderly or disabled.

11748 E. Any background check conducted pursuant to this section for a provider employed by a governmental
11749 entity shall be provided to that entity.

11750 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
11751 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
11752 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
11753 fingerprints.

11754 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
11755 negligence per se in any civil action.

11756 H. [Expired.]

11757 § 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and
11758 organizations regarding employees or volunteers providing care to children or the elderly or disabled.

11759 A. For purposes of this section:

11760 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1,
11761 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 violation of § 18.2-
11762 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, or 18.2-46.7; any violation
11763 of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51,
11764 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-
11765 54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2,
11766 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any
11767 violation of § 18.2-61, 18.2-63, 18.2-64.1, 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,
11768 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 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-
11769 83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280,
11770 18.2-281, 18.2-282, 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,
11771 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355,
11772 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366,
11773 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, 18.2-371.1, 18.2-
11774 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 felony violation of §
11775 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-
11776 423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480,
11777 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of
11778 another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any
11779 substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-
11780 1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-
11781 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 under
11782 the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense
11783 under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's
11784 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901,
11785 including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-
11786 182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register
11787 with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar
11788 offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes
11789 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)
11790 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of
11791 the conviction.

11792 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
11793 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
11794 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the
11795 barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the
11796 charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier
11797 crime.

11798 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to
11799 children or the elderly or disabled.

11800 "Department" means the Department of State Police.

11801 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
11802 to volunteer for a qualified entity.

11803 "Identification document" means a document made or issued by or under the authority of the United States
11804 government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign
11805 government, an international governmental or an international quasi-governmental organization that, when

11806 completed with information concerning a particular individual, is of a type intended or commonly accepted for
 11807 the purpose of identification of individuals.

11808 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
 11809 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
 11810 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
 11811 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

11812 "Qualified entity" means a business or organization that provides care to children or the elderly or disabled,
 11813 whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to
 11814 subdivision A 7 of § 22.1-289.030.

11815 B. A qualified entity may request the Department of State Police to conduct a national criminal background
 11816 check on any provider who is employed by such entity. No qualified entity may request a national criminal
 11817 background check on a provider until such provider has:

11818 1. Been fingerprinted; and

11819 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
 11820 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever
 11821 been convicted of or is the subject of pending charges for a criminal offense within or outside the
 11822 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars
 11823 of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to
 11824 the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and
 11825 completeness of any information contained in any such report, and to obtain a prompt determination as to the
 11826 validity of such challenge before a final determination is made by the Department; and (v) a notice to the
 11827 provider that prior to the completion of the background check the qualified entity may choose to deny the
 11828 provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

11829 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
 11830 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
 11831 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
 11832 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall
 11833 access the national criminal history background check system, which is maintained by the Federal Bureau of
 11834 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
 11835 Criminal Records Exchange maintained by the Department. If the Department receives a background report
 11836 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping
 11837 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
 11838 to a qualified entity's inquiry within 15 business days.

11839 D. Any background check conducted pursuant to this section for a provider employed by a private entity
 11840 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
 11841 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
 11842 in a position that involves unsupervised access to children or the elderly or disabled.

11843 E. Any background check conducted pursuant to this section for a provider employed by a governmental
 11844 entity shall be provided to that entity.

11845 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
 11846 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
 11847 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
 11848 fingerprints.

11849 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
 11850 negligence per se in any civil action.

11851 H. [Expired.]

11852 **§ 19.2-392.1. Statement of policy.**

11853 The General Assembly finds that arrest records can be a hindrance to ~~an innocent~~ a citizen's ability to obtain
 11854 employment, *and* an education ~~and to obtain credit~~. It further finds that the police and court records of those of
 11855 its citizens who have been absolutely pardoned for crimes for which they have been unjustly convicted *or who*

11856 *have demonstrated their rehabilitation* can also be a hindrance. This chapter is intended to protect such persons
 11857 from the unwarranted damage ~~which that~~ may occur as a result of being arrested and convicted.

11858 **§ 19.2-392.2. Expungement of police and court records.**

11859 A. If a person is charged with the commission of a crime, a civil offense, or any offense defined in Title
 11860 18.2, and

11861 ~~1. Is (i) the person is acquitted, or~~

11862 ~~2. A;~~ (ii) a nolle prosequi is taken ~~or~~; (iii) the charge is otherwise dismissed, including dismissal by accord
 11863 and satisfaction pursuant to § 19.2-151; (iv) (a) *the person is convicted or adjudicated delinquent of a violation*
 11864 *of former § 18.2-250.1 or such charged is deferred and dismissed, (b) all court costs and fines and all orders*
 11865 *of restitution have been satisfied, and (c) five years have passed since the date of completion of all terms of*
 11866 *sentencing and probation; or (v) (a) the person is convicted or adjudicated delinquent of a violation of former*
 11867 *§ 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or is charged under either*
 11868 *section and the charge is deferred and dismissed, (b) all court costs and fines and all orders of restitution have*
 11869 *been satisfied, and (c) five years have passed since the date of completion of all terms of sentencing and*
 11870 *probation, he may file a petition setting forth the relevant facts and requesting expungement of the police*
 11871 records and the court records relating to the *arrest, charge, conviction, adjudication, or civil offense.*

11872 B. If any person whose name or other identification has been used without his consent or authorization by
 11873 another person who has been charged or arrested using such name or identification, he may file a petition with
 11874 the court disposing of the charge for relief pursuant to this section. Such person shall not be required to pay any
 11875 fees for the filing of a petition under this subsection. A petition filed under this subsection shall include one
 11876 complete set of the petitioner's fingerprints obtained from a law-enforcement agency.

11877 C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in
 11878 the circuit court of the county or city in which the case was disposed of ~~by acquittal or being otherwise dismissed~~
 11879 and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency.
 11880 Where this information is not reasonably available, the petition shall state the reason for such unavailability.
 11881 The petition shall further state the specific criminal charge, *conviction, adjudication, or civil offense* to be
 11882 expunged, the date of final disposition of the charge, *conviction, adjudication, or civil offense* as set forth in the
 11883 petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

11884 D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in
 11885 which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition
 11886 or may give written notice to the court that he does not object to the petition within 21 days after it is served on
 11887 him.

11888 E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's
 11889 fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement
 11890 agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of
 11891 the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's
 11892 criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to
 11893 expunge, if applicable, and the set of fingerprints. Upon completion of the hearing, the court shall return the
 11894 fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an
 11895 order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless,
 11896 within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in
 11897 person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the
 11898 return of the fingerprint card.

11899 F. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing
 11900 on the petition. If the court finds that the continued existence and possible dissemination of information relating
 11901 to the arrest, *charge, conviction, adjudication, or civil offense* of the petitioner causes or may cause
 11902 circumstances ~~which that~~ constitute a manifest injustice to the petitioner, it shall enter an order requiring the
 11903 expungement of the police and court records, including electronic records, relating to the *arrest, charge,*
 11904 *conviction, adjudication, or civil offense.* Otherwise, it shall deny the petition. However, if the petitioner has no
 11905 prior criminal record and the arrest, *charge, or conviction* was for a misdemeanor violation or the charge was

11906 for a civil offense, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the
11907 Commonwealth, to expungement of the police and court records relating to the *arrest, charge, conviction,*
11908 *adjudication, or civil offense* and the court shall enter an order of expungement. If the attorney for the
11909 Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant
11910 to subsection D that he does not object to the petition and (ii) when the *arrest, charge, conviction, or*
11911 *adjudication* to be expunged is a felony, stipulates in such written notice that the continued existence and
11912 possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances
11913 ~~which~~ *that* constitute a manifest injustice to the petitioner, the court may enter an order of expungement without
11914 conducting a hearing.

11915 G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the
11916 decision of the court may appeal, as provided by law in civil cases.

11917 H. Notwithstanding any other provision of this section, when the charge is dismissed because the court
11918 finds that the person arrested or charged is not the person named in the summons, warrant, indictment or
11919 presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged,
11920 enter an order requiring expungement of the police and court records relating to the charge. Such order shall
11921 contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be
11922 accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such
11923 order, it shall be treated as provided in subsection K.

11924 I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-402 of an
11925 absolute pardon for the commission of a crime that a person did not commit, the court shall enter an order
11926 requiring expungement of the police and court records relating to the charge and conviction. Such order shall
11927 contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order,
11928 it shall be treated as provided in subsection K.

11929 J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13, the court
11930 shall enter an order requiring expungement of the police and court records relating to the charge and conviction.
11931 Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry
11932 of the order, it shall be treated as provided in subsection K.

11933 K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be
11934 forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to
11935 § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

11936 L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the
11937 court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the
11938 petitioner.

11939 M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in
11940 this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and
11941 notice made within three years of the entry of such order.

11942 **§ 19.2-392.2:1. Former marijuana offenses; automatic expungement.**

11943 A. *Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a misdemeanor*
11944 *violation of former § 18.2-248.1, or a violation of former § 18.2-250.1, including any violation charged under*
11945 *either section and the charge was deferred and dismissed, shall be expunged no later than (i) July 1, 2022, or*
11946 *(ii) if, on July 1, 2022, the person who is the subject of the arrest, criminal charge, conviction, or civil offense*
11947 *has not completed all terms of sentencing and probation, including satisfaction of all court costs and fines and*
11948 *all orders of restitution, three months after the date of completion of all terms of sentencing and probation.*

11949 B. *The Department of State Police shall determine which offenses in the Central Criminal Records*
11950 *Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State Police*
11951 *shall provide an electronic list, on at least a monthly basis, of all offenses that meet the criteria for automatic*
11952 *expungement sent to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains*
11953 *a case management system that interfaces with the Department of State Police under subsection B of § 17.1-*
11954 *502. The Executive Secretary, on at least a monthly basis, shall provide an electronic list of all offenses that*
11955 *meet the criteria for automatic expungement to the clerk of each circuit court in the jurisdiction where the case*

11956 was finalized, if such circuit court clerk participates in the case management system maintained by the
11957 Executive Secretary.

11958 C. Upon receipt of the electronic list provided under subsection B, on at least a monthly basis the clerk of
11959 each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing
11960 that the offenses that meet the criteria for automatic expungement be automatically expunged. Such order shall
11961 contain the names of the persons charged with or convicted of such offenses.

11962 D. The clerk of each circuit court shall provide, on a monthly basis, an electronic copy of any order entered
11963 under subsection C to the Department of State Police and to any agency or individual known to maintain or to
11964 have obtained the records to be expunged. Upon receipt of such order, the Department of State Police and any
11965 such agency or individual shall expunge such records under the process set forth by the Department of State
11966 Police pursuant to rules and regulations adopted pursuant to § 9.1-134.

11967 Any records maintained electronically which are transformed by whatever means to an offline system or to
11968 a confidential and secure area inaccessible from normal use within the system in which the record is maintained
11969 shall be considered expunged, provided that such records are accessible only to the manager of the records.
11970 Records relating to the arrest, criminal charge, or conviction of a person for a violation of § 18.2-250.1,
11971 including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251,
11972 maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise
11973 disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-
11974 308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation
11975 report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of
11976 Chapter 9, a presentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the
11977 preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01;
11978 (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive
11979 Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving
11980 adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for
11981 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System
11982 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to
11983 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines
11984 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State
11985 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any
11986 political subdivision thereof, and who is responsible for the prevention and detection of crime and the
11987 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of
11988 criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research
11989 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's
11990 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose
11991 of screening any person for full-time or part-time employment with the State Police or a police department or
11992 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix)
11993 to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a
11994 volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any
11995 full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person
11996 for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-
11997 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official
11998 of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose
11999 of screening any person who applies to be a volunteer with or an employee of an emergency medical services
12000 agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor
12001 Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for
12002 the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

12003 The Department of State Police shall not be required to notify any such agency or individual that it
12004 possesses records subject to an expungement order and no such agency or individual responsible for expunging

12005 *records in their possession shall be required to notify the Department of State Police after complying with an*
 12006 *expungement order.*

12007 *E. The Department of Motor Vehicles (the Department) shall not expunge any conviction (i) in violation of*
 12008 *federal regulatory record retention requirements, (ii) in violation of federal program requirements, or (iii) until*
 12009 *three years after all statutory requirements associated with a driver's license suspension have been complied*
 12010 *with if the Department is required to suspend a person's driving privileges as a result of a conviction ordered*
 12011 *to be expunged. Upon receipt of an order of expungement, the Department shall expunge all records if the*
 12012 *federal regulatory record retention period has run, or three years have passed since the date that all statutory*
 12013 *requirements associated with a suspension have been satisfied. However, if the Department cannot expunge a*
 12014 *conviction pursuant to this subsection at the time it is ordered, the Department shall maintain a list including*
 12015 *(a) the record not eligible for expungement, (b) the reason the record could not be expunged, (c) the authority*
 12016 *prohibiting expungement at the time it is ordered, and (d) if known as the time that expungement is ordered, the*
 12017 *date on which the record may be expunged.*

12018 *F. All electronic lists created in accordance with this section are not subject to further dissemination unless*
 12019 *explicitly provided for by this section. Any willful and intentional unlawful dissemination is punishable as an*
 12020 *unlawful dissemination of criminal history record information in violation of § 9.1-136.*

12021 **§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of state and**
 12022 **local governments.**

12023 *A. An employer or educational institution shall not, in any application, interview, or otherwise, require an*
 12024 *applicant for employment or admission to disclose information concerning any arrest-~~or~~, criminal charge against*
 12025 *him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question*
 12026 *concerning any arrest-~~or~~, criminal charge-~~that has not resulted in a~~, conviction, or civil offense, include a*
 12027 *reference to or information concerning arrests-~~or~~, charges, convictions, or civil offenses that have been*
 12028 *expunged.*

12029 *B. Agencies, officials, and employees of the state and local governments shall not, in any application,*
 12030 *interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to*
 12031 *disclose information concerning any arrest-~~or~~, criminal charge against him, conviction, or civil offense that has*
 12032 *been expunged. An applicant need not, in answer to any question concerning any arrest-~~or~~, criminal charge-~~that~~*
 12033 *has not resulted in a, conviction, or civil offense, include a reference to or information concerning an arrest,*
 12034 *charges, convictions, or civil offenses that have been expunged. Such an application may not be denied solely*
 12035 *because of the applicant's refusal to disclose information concerning any arrest-~~or~~, criminal charge against him,*
 12036 *conviction, or civil offense that has been expunged.*

12037 *C. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.*

12038 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine**
 12039 **products.**

12040 *A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by*
 12041 *the Board of Education.*

12042 *B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,*
 12043 *underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia Alcoholic*
 12044 *Beverage Control Authority and the Virginia Cannabis Control Authority shall provide educational materials*
 12045 *to the Department of Education. The Department of Education shall review and shall distribute such materials*
 12046 *as are approved to the public schools.*

12047 *C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall*
 12048 *distribute to each local school division educational materials concerning the health and safety risks of using*
 12049 *tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in §*
 12050 *18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor*
 12051 *products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each*
 12052 *public elementary and secondary school in the Commonwealth, consistent with such educational materials.*

12053 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

12054 A. School boards shall expel from school attendance any student whom such school board has determined,
 12055 in accordance with the procedures set forth in this article, to have brought a controlled substance, *or* imitation
 12056 controlled substance, ~~or marijuana~~ as *those terms are* defined in § 18.2-247 *or marijuana as defined in § 4.1-*
 12057 *600* onto school property or to a school-sponsored activity. A school administrator, pursuant to school board
 12058 policy, or a school board may, however, determine, based on the facts of a particular situation, that special
 12059 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is
 12060 appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct
 12061 a preliminary review of such cases to determine whether a disciplinary action other than expulsion is
 12062 appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is
 12063 appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth
 12064 in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts
 12065 of the particular situation.

12066 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this
 12067 section no later than three months after the date on which this act becomes effective.

12068 **§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

12069 A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was killed in
 12070 the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer
 12071 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special
 12072 forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic
 12073 Beverage Control Authority *or the Virginia Cannabis Control Authority*, state correctional, regional or local
 12074 jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia
 12075 National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or
 12076 (iii) member of the Virginia Defense Force while serving on official state duty, and any individual whose spouse
 12077 was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of
 12078 undergraduate tuition and mandatory fees at any public institution of higher education under the following
 12079 conditions:

12080 1. The chief executive officer of the deceased individual's employer certifies that such individual was so
 12081 employed and was killed in the line of duty while serving or living in the Commonwealth; and

12082 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and applies
 12083 to such institution for the waiver. Waiver recipients who make satisfactory academic progress are eligible for
 12084 renewal of such waiver.

12085 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and
 12086 mandatory educational and auxiliary fees, and books and supplies but shall not waive user fees such as room
 12087 and board charges.

12088 C. Each public institution of higher education shall include in its catalog or equivalent publication a
 12089 statement describing the benefits available pursuant to this section.

12090 **§ 23.1-1301. Governing boards; powers.**

12091 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

12092 1. Make regulations and policies concerning the institution;

12093 2. Manage the funds of the institution and approve an annual budget;

12094 3. Appoint the chief executive officer of the institution;

12095 4. Appoint professors and fix their salaries; and

12096 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

12097 B. The governing board of each public institution of higher education or its designee may:

12098 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative
 12099 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired
 12100 by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of
 12101 the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as
 12102 all other gifts and bequests;

- 12103 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes
 12104 on any property owned by the institution;
- 12105 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,
 12106 or controlled by the institution;
- 12107 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
 12108 instructors, and other employees;
- 12109 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the
 12110 regulations or institution policies required pursuant to § 23.1-1303;
- 12111 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission
 12112 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such
 12113 regulations or policies;
- 12114 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote
 12115 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness
 12116 and prevention of sexual crimes committed upon students;
- 12117 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in
 12118 accordance with the prohibition against hazing as defined in § 18.2-56;
- 12119 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an
 12120 interest, provided such assignment is in accordance with the terms of the institution's intellectual property
 12121 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such
 12122 property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital
 12123 assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or
 12124 (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment
 12125 Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations,
 12126 colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor
 12127 may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve
 12128 such transfer, the materials shall remain the property of the respective institutions and may be used and
 12129 developed in any manner permitted by law;
- 12130 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public
 12131 body" for purposes of subsection D of § 2.2-3708.2; and
- 12132 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to
 12133 enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution.
 12134 Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances
 12135 with respect to offenses occurring on the property of the institution.
- 12136 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**
- 12137 Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed
 12138 to fill an elective office, residing within the jurisdiction of the court:
- 12139 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of
 12140 duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the
 12141 conduct of the office;
- 12142 2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1
 12143 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:
- 12144 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a
 12145 controlled substance ~~or marijuana~~;
- 12146 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
 12147 paraphernalia; or
- 12148 c. Possession of any controlled substance ~~or marijuana~~ and such conviction under subdivision a, b, or c has
 12149 a material adverse effect upon the conduct of such office;
- 12150 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate
 12151 crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct
 12152 of such office; or

12153 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-
 12154 67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or
 12155 enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in
 12156 violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of
 12157 § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

12158 The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer
 12159 equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that the officer holds.

12160 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently
 12161 subject to the provisions of this section for the same criminal offense.

12162 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

12163 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following
 12164 persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the
 12165 payment of toll while in the performance of their official duties:

- 12166 1. The Commissioner of Highways;
- 12167 2. Members of the Commonwealth Transportation Board;
- 12168 3. Employees of the Department of Transportation;
- 12169 4. The Superintendent of the Department of State Police;
- 12170 5. Officers and employees of the Department of State Police;
- 12171 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the Board*
 12172 *of Directors of the Virginia Cannabis Control Authority*;
- 12173 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority
 12174 *or the Virginia Cannabis Control Authority* and special agents of the Virginia Alcoholic Beverage Control
 12175 Authority *or the Virginia Cannabis Control Authority*;
- 12176 8. The Commissioner of the Department of Motor Vehicles;
- 12177 9. Employees of the Department of Motor Vehicles;
- 12178 10. Local police officers;
- 12179 11. Sheriffs and their deputies;
- 12180 12. Regional jail officials;
- 12181 13. Animal wardens;
- 12182 14. The Director and officers of the Department of Wildlife Resources;
- 12183 15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-
 12184 111.1;
- 12185 16. Operators of school buses being used to transport pupils to or from schools;
- 12186 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and
 12187 used to regularly transport workers to and from their places of employment and (ii) public transit buses;
- 12188 18. Employees of the Department of Rail and Public Transportation;
- 12189 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of
 12190 1988; and
- 12191 20. Law-enforcement officers of the Virginia Marine Resources Commission.

12192 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of
 12193 such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the
 12194 Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk
 12195 to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the
 12196 temporary suspension of toll collection operations on its facilities.

12197 1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend
 12198 toll collection operations shall be made by the Commissioner of Highways or his designee.

12199 2. Major incidents that may require the temporary suspension of toll collection operations shall include (i)
 12200 natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials,
 12201 such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents
 12202 deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in

12203 § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones
12204 on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection
12205 when the mandatory evacuation period ends.

12206 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for
12207 any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess
12208 against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that
12209 such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for
12210 deposit into the toll road fund.

12211 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll
12212 ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a
12213 fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who
12214 exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of
12215 a Class 1 misdemeanor.

12216 D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3
12217 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a
12218 motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities
12219 in the Commonwealth if:

12220 1. The vehicle is specially equipped to permit its operation by a handicapped person;

12221 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any
12222 other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely
12223 physically disabled and having permanent upper limb mobility or dexterity impairments that substantially
12224 impair his ability to deposit coins in toll baskets;

12225 3. The driver has applied for and received from the Department of Transportation a vehicle window sticker
12226 identifying him as eligible for such free passage; and

12227 4. Such identifying window sticker is properly displayed on the vehicle.

12228 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the
12229 Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those
12230 persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

12231 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of
12232 § 22.1-187.

12233 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the
12234 Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities
12235 of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§
12236 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

12237 1. The Commissioner of Highways;

12238 2. Members of the Commonwealth Transportation Board;

12239 3. Employees of the Department of Transportation;

12240 4. The Superintendent of the Department of State Police;

12241 5. Officers and employees of the Department of State Police;

12242 6. The Commissioner of the Department of Motor Vehicles;

12243 7. Employees of the Department of Motor Vehicles; and

12244 8. Sheriffs and deputy sheriffs.

12245 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the
12246 Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations
12247 on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation
12248 Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation
12249 zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the
12250 applicable comprehensive agreement between the operator and the Department. The Commissioner of
12251 Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the

12252 mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the
 12253 same affected area, whichever occurs first.

12254 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia
 12255 controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of
 12256 subdivisions D 1 through 4.

12257 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the
 12258 Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1
 12259 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia
 12260 Highway Corporation Act of 1988 (§ 56-535 et seq.).

12261 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

12262 A. ~~It shall be~~ *is* unlawful for any person to obtain a Virginia driver's license, special identification card,
 12263 vehicle registration, certificate of title, or other document issued by the Department if such person has not
 12264 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled
 12265 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or
 12266 altered documents.

12267 B. ~~It shall be~~ *is* unlawful to aid any person to obtain any driver's license, special identification card, vehicle
 12268 registration, certificate of title, or other document in violation of the provisions of subsection A.

12269 C. ~~It shall be~~ *is* unlawful to knowingly possess or use for any purpose any driver's license, special
 12270 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
 12271 provisions of subsection A.

12272 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged
 12273 and convicted of a violation of this section that involved the unlawful obtaining or possession of any document
 12274 issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to
 12275 obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and
 12276 convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

12277 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
 12278 identification card, vehicle registration, certificate of title, or other document issued by the Department has been
 12279 obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the
 12280 cancellation to the address of record maintained by the Department.

12281 **§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.**

12282 A. *It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor*
 12283 *vehicle as defined in § 46.2-341. The attorney for the Commonwealth or the county, city, or town attorney may*
 12284 *prosecute such a case.*

12285 *Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in*
 12286 *which marijuana was found shall not create a presumption that such person either knowingly or intentionally*
 12287 *possessed such marijuana.*

12288 *Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of this*
 12289 *section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited into the Drug*
 12290 *Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations of this section by*
 12291 *an adult shall be prepayable according to the procedures in § 16.1-69.40:2.*

12292 B. *Any violation of this section shall be charged by summons. A summons for a violation of this section may*
 12293 *be executed by a law-enforcement officer when such violation is observed by such officer. The summons used*
 12294 *by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for*
 12295 *motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for*
 12296 *violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not*
 12297 *include records of any charges or judgments for a violation of this section, and records of such charges or*
 12298 *judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be*
 12299 *reported to the Department of Motor Vehicles and shall be included on such individual's driving record.*

12300 C. *The procedure for appeal and trial of any violation of this section shall be the same as provided by law*
 12301 *for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided*

12302 *in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove*
 12303 *its case beyond a reasonable doubt.*

12304 *D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-*
 12305 *enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs*
 12306 *trained in the detection of controlled substances when possession of marijuana is necessary for the performance*
 12307 *of their duties.*

12308 *E. The provisions of this section involving marijuana in the form of cannabis oil as that term is defined in*
 12309 *§ 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to a valid written certification*
 12310 *issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to*
 12311 *alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or*
 12312 *guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's*
 12313 *diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to §*
 12314 *54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal*
 12315 *guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's*
 12316 *diagnosed condition or disease.*

12317 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to**
 12318 **obtain alcoholic beverages; penalties.**

12319 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive
 12320 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the
 12321 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States
 12322 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of
 12323 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign
 12324 government agency; or official student identification card of an institution of higher education to obtain
 12325 alcoholic beverages ~~shall be~~ *or marijuana is* guilty of a Class 3 misdemeanor, and upon conviction of a violation
 12326 of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor
 12327 vehicle for a period of not less than 30 days nor more than one year.

12328 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

12329 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
 12330 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic
 12331 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be
 12332 the operator of the establishment has allowed it to become a meeting place for persons committing serious
 12333 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be
 12334 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer
 12335 of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at
 12336 a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana*
 12337 at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of
 12338 exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held
 12339 within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place
 12340 of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing.
 12341 Any injunction issued by the court shall be dissolved in the event the court later finds that the threat to public
 12342 safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or
 12343 business operations at the establishment, or other change in circumstance.

12344 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall
 12345 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic
 12346 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the
 12347 activities at the establishment complained of and conduct an administrative hearing. After the Virginia
 12348 Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority* hearing and when a final
 12349 determination has been issued by the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis*
 12350 *Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action
 12351 by the complainant, respondent, or the court.

12352 § 51.1-212. Definitions.**12353** As used in this chapter, unless the context requires a different meaning:

12354 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus
12355 police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii)
12356 conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter
12357 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority
12358 appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia*
12359 *Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1,* (v)
12360 law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101,
12361 (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a
12362 juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole officer appointed pursuant to §
12363 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer employed by the Department of State Police.

12364 "Member" means any person included in the membership of the Retirement System as provided in this
12365 chapter.

12366 "Normal retirement date" means a member's sixtieth birthday.

12367 "Retirement System" means the Virginia Law Officers' Retirement System.

12368 § 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

12369 This section shall apply to any person who is not a qualified voter because of a felony conviction, who
12370 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the
12371 conditions and requirements set out in this section.

12372 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection
12373 C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to ~~§§~~ § 4.1-1101, 4.1-1114,
12374 18.2-248, 18.2-248.01, ~~18.2-248.1,~~ 18.2-255, 18.2-255.2, or ~~§~~ 18.2-258.02; or (iii) convicted of a felony
12375 pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a
12376 felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right
12377 to be eligible to register to vote through the process set out in this section. On such petition, the court may
12378 approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented
12379 that the petitioner has completed, five or more years previously, service of any sentence and any modification
12380 of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic
12381 responsibility through community or comparable service; and that the petitioner has been free from criminal
12382 convictions, excluding traffic infractions, for the same period.

12383 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,
12384 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to
12385 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to
12386 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall
12387 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible
12388 to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days
12389 of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of
12390 that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition
12391 for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The
12392 Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or
12393 denial of restoration by the Governor.

12394 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
12395 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

12396 § 54.1-2903. What constitutes practice; advertising in connection with medical practice.

12397 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as
12398 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public
12399 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"
12400 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation

12401 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or
12402 relieve those suffering from any injury, deformity or disease.

12403 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
12404 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other
12405 remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the
12406 healing arts within the meaning of this chapter except where persons other than physicians are required to sign
12407 birth certificates.

12408 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing
12409 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation
12410 or designation, or other language that identifies the type of practice for which he is licensed. No person regulated
12411 under this chapter shall include in any advertisement a reference to marijuana, as defined in ~~§ 18.2-247~~ 54.1-
12412 3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this
12413 subsection shall prevent a person from including in any advertisement that such person is registered with the
12414 Board of Pharmacy to issue written certifications for the use of cannabis oil, as defined in § 54.1-3408.3.

12415 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

12416 A. As used in this section:

12417 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from
12418 industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the
12419 resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic
12420 acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does
12421 not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state
12422 or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical
12423 processor.

12424 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a
12425 physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of
12426 Medicine and the Board of Nursing.

12427 "Registered agent" means an individual designated by a patient who has been issued a written certification,
12428 or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's
12429 parent or legal guardian, and registered with the Board pursuant to subsection G.

12430 B. A practitioner in the course of his professional practice may issue a written certification for the use of
12431 cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the
12432 practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the
12433 manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with
12434 federal requirements for the prescribing of Schedule II through V controlled substances.

12435 C. The written certification shall be on a form provided by the Office of the Executive Secretary of the
12436 Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain
12437 the name, address, and telephone number of the practitioner, the name and address of the patient issued the
12438 written certification, the date on which the written certification was made, and the signature of the practitioner.
12439 Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance
12440 unless the practitioner provides in such written certification an earlier expiration.

12441 D. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248 ~~or~~
12442 ~~18.2-248.1~~ for dispensing or distributing cannabis oil for the treatment or to alleviate the symptoms of a patient's
12443 diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in
12444 this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate
12445 or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or
12446 treating medical conditions.

12447 E. A practitioner who issues a written certification to a patient pursuant to this section shall register with
12448 the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to
12449 whom a practitioner may issue a written certification.

12450 F. A patient who has been issued a written certification shall register with the Board or, if such patient is a
12451 minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and
12452 shall register such patient with the Board.

12453 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's
12454 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving
12455 cannabis oil pursuant to a valid written certification. Such designated individual shall register with the Board.
12456 The Board may set a limit on the number patients for whom any individual is authorized to act as a registered
12457 agent.

12458 H. The Board shall promulgate regulations to implement the registration process. Such regulations shall
12459 include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient
12460 being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as
12461 defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the
12462 information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written
12463 certification by more than one practitioner during any given time period.

12464 I. Information obtained under the registration process shall be confidential and shall not be subject to the
12465 disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable
12466 access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of
12467 Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for
12468 the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed
12469 practitioners or pharmacists for the purpose of providing patient care and drug therapy management and
12470 monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing
12471 facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if
12472 such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian,
12473 but only with respect to information related to such registered patient.

12474 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

12475 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first
12476 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the
12477 Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or
12478 cannabis dispensing facility. The Board shall establish an application fee and other general requirements for
12479 such application.

12480 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits
12481 that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis
12482 dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed
12483 in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

12484 C. The Board shall adopt regulations establishing health, safety, and security requirements for
12485 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for
12486 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and
12487 resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely
12488 and securely dispensing and delivering in person cannabis oil to a registered patient, his registered agent, or, if
12489 such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian;
12490 (ix) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams
12491 of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of cannabis oil
12492 products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing
12493 facility; (xi) an allowance for the sale of devices for administration of dispensed products; (xii) an allowance
12494 for the use and distribution of inert product samples containing no cannabinoids for patient demonstration
12495 exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or
12496 sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp
12497 extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The
12498 Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for
12499 safety and securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of

12500 marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant
12501 remains; and (d) a process for registering cannabis oil products.

12502 D. The Board shall require that, after processing and before dispensing cannabis oil, a pharmaceutical
12503 processor shall make a sample available from each homogenized batch of product for testing by an independent
12504 laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined
12505 by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures.
12506 A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized
12507 batch is required to achieve a representative sample for analysis.

12508 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
12509 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board
12510 in regulation.

12511 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision
12512 of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A
12513 pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas
12514 designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the
12515 premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate
12516 to protect the cannabis from diversion at all times.

12517 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility
12518 permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his
12519 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the
12520 purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and
12521 the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall
12522 forward the results of the criminal history background check to the Board or its designee, which shall be a
12523 governmental entity.

12524 H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
12525 individuals who may have less than two years of experience (i) to perform cultivation-related duties under the
12526 supervision of an individual who has received a degree in horticulture or a certification recognized by the Board
12527 or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under
12528 the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of
12529 experience extracting chemicals from plants.

12530 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five
12531 cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced on the
12532 premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be
12533 located within the same health service area as the pharmaceutical processor.

12534 J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another
12535 jurisdiction or (ii) within the last five years, any offense in violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title*
12536 *4.1 or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 or a*
12537 *substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a*
12538 *pharmaceutical processor or cannabis dispensing facility.*

12539 K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment
12540 drug screening and regular, ongoing, random drug screening of employees.

12541 L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall determine the
12542 number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who can be safely and
12543 competently supervised at one time; however, no pharmacist shall supervise more than six persons performing
12544 the duties of a pharmacy technician at one time.

12545 M. Any person who proposes to use an automated process or procedure during the production of cannabis
12546 oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be on-site may
12547 apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-
12548 3307.2.

N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before oil from industrial hemp may be acquired.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility 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, or 18.2-250.1~~ for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the provisions of this article and Board regulations.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This 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

12599 Agents who reported stamping or selling its products and the amount reported. The Attorney General shall
12600 provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of
12601 the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping
12602 Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to
12603 subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a
12604 copy of the prior written request to the Stamping Agent and any response received, for copies of any reports
12605 not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

12606 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified
12607 as to prevent the identification of particular reports or returns and the items thereof or the publication of
12608 delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant
12609 information which in the opinion of the Department may assist in the collection of such delinquent taxes.
12610 Notwithstanding any other provision of this section or other law, the Department, upon request by the General
12611 Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount
12612 of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the
12613 deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax
12614 official from disclosing whether a person, firm or corporation is licensed to do business in that locality and
12615 divulging, upon written request, the name and address of any person, firm or corporation transacting business
12616 under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue
12617 is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with
12618 information obtained from local tax returns and other information pertaining to the income, sales and property
12619 of any person, firm or corporation licensed to do business in that locality.

12620 2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is
12621 registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate
12622 of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law,
12623 the Department is hereby authorized to make available the names and certificate of registration numbers of
12624 dealers who are currently registered for retail sales and use tax.

12625 3. This section shall not prohibit the Department from disclosing information to nongovernmental entities
12626 with which the Department has entered into a contract to provide services that assist it in the administration of
12627 refund processing or other services related to its administration of taxes.

12628 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding
12629 whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer
12630 submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision
12631 C 1 of § 58.1-478.

12632 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other
12633 similar local official who collects or administers taxes for a county, city, or town from disclosing information
12634 to nongovernmental entities with which the locality has entered into a contract to provide services that assist it
12635 in the administration of refund processing or other non-audit services related to its administration of taxes. The
12636 commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or
12637 administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained
12638 a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties
12639 set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

12640 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
12641 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of
12642 finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties,
12643 requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the
12644 Department of Social Services, upon entering into a written agreement, the amount of income, filing status,
12645 number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal
12646 Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been
12647 claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits
12648 as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or

12649 as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned
12650 income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income
12651 taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan
12652 guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those
12653 persons identified by the designated guarantor as having delinquent loans guaranteed by the designated
12654 guarantor; (iv) provide current address information upon request to state agencies and institutions for their
12655 confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court
12656 for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in
12657 that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a
12658 written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes
12659 and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority *or the Virginia*
12660 *Cannabis Control Authority*, upon entering into a written agreement, such tax information as may be necessary
12661 to facilitate the collection of state and local taxes and the administration of the alcoholic beverage *or cannabis*
12662 control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to
12663 identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury
12664 for its confidential use such tax information as may be necessary to facilitate the location of owners and holders
12665 of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon
12666 entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes
12667 and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and
12668 Rappahannock Transportation Commission for his confidential use such tax information as may be necessary
12669 to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the
12670 Department of Agriculture and Consumer Services such tax information as may be necessary to identify those
12671 applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or
12672 who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its
12673 confidential use such tax information as may be necessary to facilitate the administration of the remaining
12674 effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§
12675 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a
12676 written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the
12677 Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide
12678 such information to a private collector who has used or disseminated in an unauthorized or prohibited manner
12679 any such information previously provided to such collector; (xiv) provide current name and address information
12680 as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
12681 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction
12682 or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes
12683 Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax
12684 information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to
12685 the Director of the Department of Human Resource Management, upon entering into a written agreement, such
12686 tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits
12687 who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue,
12688 director of finance, or any other officer of any county, city, or town performing any or all of the duties of a
12689 commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and
12690 Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax;
12691 (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his
12692 confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel
12693 sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of
12694 the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the
12695 Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the
12696 economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written
12697 agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement
12698 System and the Department of Human Resource Management, after entering into a written agreement, such tax

12699 information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to
12700 the Department of Medical Assistance Services, upon entering into a written agreement, the name, address,
12701 social security number, number and type of personal exemptions, tax-filing status, and adjusted gross income
12702 of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to
12703 such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; and
12704 (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that
12705 an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from
12706 Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return
12707 filed with the Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to
12708 enter into written agreements with duly constituted tax officials of other states and of the United States for the
12709 inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered
12710 by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall
12711 be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

12712 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner
12713 of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for
12714 such request, the chief executive officer of any county or city with information furnished to the commissioner
12715 of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county
12716 or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to
12717 the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its
12718 confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a
12719 criminal investigation of an unlawful practice of a profession or occupation administered by the Department of
12720 Professional and Occupational Regulation, only after the Department of Professional and Occupational
12721 Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a
12722 condominium unit owners' association, property owners' association or real estate cooperative association, or
12723 to the owner of property governed by any such association, the names and addresses of parties having a security
12724 interest in real property governed by any such association; however, such information shall be released only
12725 upon written request stating the reason for such request, which reason shall be limited to proposing or opposing
12726 changes to the governing documents of the association, and any information received by any person under this
12727 subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing
12728 official may require any person requesting information pursuant to clause (iii) of this subsection to pay the
12729 reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to
12730 this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax
12731 official.

12732 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or
12733 other collector of taxes for a county, city or town is authorized to provide information relating to any motor
12734 vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to
12735 the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner
12736 or other official in performing assessments.

12737 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor
12738 vehicle local license decal the year, make, and model and any other legal identification information about the
12739 particular motor vehicle for which that local license decal is assigned.

12740 E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory
12741 unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request,
12742 the name, address, and social security number of a taxpayer, necessary for the performance of the
12743 Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of
12744 the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be
12745 deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

12746 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
12747 confidential tax document which he knows or has reason to know is a confidential tax document. A confidential
12748 tax document is any correspondence, document, or tax return that is prohibited from being divulged by

12749 subsection A, B, C, or D and includes any document containing information on the transactions, property,
 12750 income, or business of any person, firm, or corporation that is required to be filed with any state official by §
 12751 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated
 12752 pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is
 12753 guilty of a Class 1 misdemeanor.

12754 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

12755 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic Beverage
 12756 Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine Resources
 12757 Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry,
 12758 any sheriff, any regional jail board or authority, and any local police department may allow any full-time sworn
 12759 law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn
 12760 fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of
 12761 higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§
 12762 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections
 12763 may allow any employee with internal investigations authority designated by the Department of Corrections
 12764 pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age
 12765 or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for
 12766 a service-incurred disability with no expectation of returning to the employment where he incurred the disability
 12767 to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1.
 12768 If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon.
 12769 This privilege shall also extend to any former Superintendent of the Department of State Police who leaves
 12770 service after a minimum of five years. This privilege shall also extend to any person listed in this subsection
 12771 who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good
 12772 standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement
 12773 System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may,
 12774 with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair
 12775 market price determined as in subsection B, so long as the weapon is a type and configuration that can be
 12776 purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the
 12777 instant background check.

12778 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires
 12779 with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency
 12780 at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time
 12781 sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for
 12782 disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the
 12783 agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement.
 12784 Determinations of fair market value may be made by reference to a recognized pricing guide.

12785 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-
 12786 enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of
 12787 service to purchase the service handgun issued to the officer by the agency at a price of \$1.

12788 D. The governing board of any institution of higher-learning *education* named in § 23.1-1100 may allow
 12789 any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who
 12790 retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the
 12791 weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be
 12792 made by reference to a recognized pricing guide.

12793 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state
 12794 agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10
 12795 years of state service, even if a portion of his service was with another state agency, may purchase the service
 12796 handgun issued to him by the agency from which he retires at a price of \$1.

12797 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of
 12798 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

12799 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than
 12800 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to
 12801 or less than the weapon's fair market value on the date of purchase by the officer.

12802 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently
 12803 employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer
 12804 of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new
 12805 service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer
 12806 in the course of duty.

12807 **§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.**

12808 A. As used in this section:

12809 "Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to §
 12810 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer
 12811 firefighter and volunteer emergency medical services personnel.

12812 "In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or
 12813 authorized to perform by rule, regulation, written condition of employment service, or law.

12814 "Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii)
 12815 member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of
 12816 Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of
 12817 Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn
 12818 member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix)
 12819 special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
 12820 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia Cannabis Control Authority appointed under*
 12821 *the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*; (x) for such period that the Metropolitan Washington
 12822 Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer
 12823 of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer
 12824 of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police
 12825 force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under
 12826 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
 12827 education.

12828 "Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to
 12829 Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

12830 "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress
 12831 disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and
 12832 Statistical Manual of Mental Disorders.

12833 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

- 12834 1. Resulting in serious bodily injury or death to any person or persons;
- 12835 2. Involving a minor who has been injured, killed, abused, or exploited;
- 12836 3. Involving an immediate threat to life of the claimant or another individual;
- 12837 4. Involving mass casualties; or
- 12838 5. Responding to crime scenes for investigation.

12839 B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under
 12840 this title if:

12841 1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-
 12842 enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's
 12843 undergoing a qualifying event;

12844 2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in
 12845 the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and
 12846 Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

12847 3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in
 12848 causing his post-traumatic stress disorder;

12849 4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-
12850 traumatic stress disorder; and

12851 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job
12852 transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer
12853 or firefighter.

12854 Any such mental health professional shall comply with any workers' compensation guidelines for approved
12855 medical providers, including guidelines on release of past or contemporaneous medical records.

12856 C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement
12857 officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment
12858 prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under
12859 § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of
12860 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-
12861 500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the
12862 date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly
12863 benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when
12864 combined with other benefits, including contributory and noncontributory retirement benefits, Social Security
12865 benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical
12866 care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

12867 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make
12868 peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer
12869 or firefighter seeking mental health care services to a mental health professional.

12870 E. Each fire basic training program conducted or administered by the Department of Fire Programs or a
12871 municipal fire department in the Commonwealth shall provide, in consultation with the Department of
12872 Behavioral Health and Developmental Services, resilience and self-care technique training for any individual
12873 who begins basic training as a firefighter on or after July 1, 2021.

12874 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart**
12875 **disease, cancer.**

12876 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of
12877 Emergency Management hazardous materials officers or(ii) any health condition or impairment of such
12878 firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial
12879 disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this
12880 title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

12881 B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in
12882 total or partial disability of any of the following persons who have completed five years of service in their
12883 position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System,
12884 (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of
12885 Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City
12886 of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn
12887 members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x)
12888 special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
12889 1 (§ 4.1-100 et seq.) of Title 4.1 or special agents of the Virginia Cannabis Control Authority appointed under
12890 the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington
12891 Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers
12892 of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers
12893 of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the
12894 police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers
12895 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution
12896 of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered
12897 by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

12898 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing
12899 the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or
12900 salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle
12901 enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time
12902 sworn member of the enforcement division of the Department of Motor Vehicles having completed five years
12903 of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this
12904 title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon,
12905 brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a
12906 condition before July 1, 2020.

12907 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke
12908 them have, if requested by the private employer, appointing authority or governing body employing them,
12909 undergone preemployment physical examinations that (i) were conducted prior to the making of any claims
12910 under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as
12911 prescribed by the private employer, appointing authority or governing body employing such persons, (iii)
12912 included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities
12913 or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension,
12914 cancer or heart disease at the time of such examinations.

12915 E. Persons making claims under this title who rely on such presumptions shall, upon the request of private
12916 employers, appointing authorities or governing bodies employing such persons, submit to physical
12917 examinations (i) conducted by physicians selected by such employers, authorities, bodies or their
12918 representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians.
12919 However, a qualified physician, selected and compensated by the claimant, may, at the election of such
12920 claimant, be present at such examination.

12921 F. Whenever a claim for death benefits is made under this title and the presumptions of this section are
12922 invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer,
12923 appointing authority or governing body that had employed the deceased, submit the body of the deceased to a
12924 postmortem examination as may be directed by the Commission. A qualified physician, selected and
12925 compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such
12926 postmortem examination.

12927 G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and
12928 reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

12929 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-
12930 1135 and any persons who are employed by or contract with private employers primarily to perform firefighting
12931 services.

12932 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

12933 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition
12934 or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or
12935 volunteer emergency medical services personnel, (ii) member of the State Police Officers' Retirement System,
12936 (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of
12937 Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of
12938 Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn
12939 member of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officer, (x)
12940 special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
12941 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under
12942 the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington
12943 Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer
12944 of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer
12945 of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of
12946 the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of
12947 the police force established and maintained by the Virginia Port Authority, (xv) campus police officer appointed

12948 under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
12949 education, (xvi) correctional officer as defined in § 53.1-1, or (xvii) full-time sworn member of the enforcement
12950 division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body
12951 fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered
12952 by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.
12953 For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed
12954 "documented" if the person covered under this section gave notice, written or otherwise, of the occupational
12955 exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed
12956 "documented" without regard to whether the person gave notice, written or otherwise, of the occupational
12957 exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the
12958 enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual
12959 was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

12960 B. As used in this section:

12961 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which
12962 universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by
12963 the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal
12964 meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids,
12965 including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-
12966 borne organisms can be transmitted between persons.

12967 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other strain
12968 of hepatitis generally recognized by the medical community.

12969 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type
12970 II, causing immunodeficiency syndrome.

12971 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means
12972 an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

12973 C. Persons covered under this section who test positive for exposure to the enumerated occupational
12974 diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a
12975 claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to
12976 measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

12977 D. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis
12978 exists for the prevention of a communicable disease for which a presumption is established under this section,
12979 if medically indicated by the given circumstances pursuant to immunization policies established by the
12980 Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to
12981 the provisions of this section may be required by such person's employer to undergo the immunization or
12982 prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would
12983 pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person
12984 subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person
12985 from any presumption established by this section.

12986 E. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if
12987 requested by the appointing authority or governing body employing them, undergone preemployment physical
12988 examinations that (i) were conducted prior to the making of any claims under this title that rely on such
12989 presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the appointing
12990 authority or governing body employing such persons, (iii) included such appropriate laboratory and other
12991 diagnostic studies as the appointing authorities or governing bodies may have prescribed, and (iv) found such
12992 persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The
12993 presumptions described in subsection A shall not be effective until six months following such examinations,
12994 unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the
12995 six-month period.

12996 F. Persons making claims under this title who rely on such presumption shall, upon the request of appointing
12997 authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by

12998 physicians selected by such appointing authorities or governing bodies or their representatives and (ii)
 12999 consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified
 13000 physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such
 13001 examination.

13002 **2. That §§ 3.2-4113, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-260,**
 13003 **16.1-273, 16.1-278.8:01, 16.1-278.9, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3,**
 13004 **18.2-308.09, 18.2-308.1:5, 19.2-188.1, 24.2-233, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia are**
 13005 **amended and reacted as follows:**

13006 **§ 3.2-4113. Production of industrial hemp lawful.**

13007 A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent
 13008 to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his
 13009 agent, or processor or his agent shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-
 13010 250, or ~~18.2-250.1~~ *Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2* for the possession, growing,
 13011 dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or
 13012 proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title
 13013 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse,
 13014 proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such
 13015 exception, excuse, proviso, or exemption shall be on the defendant.

13016 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

13017 C. No person shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or ~~18.2-~~
 13018 ~~250.1~~ *Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2* for the involuntary growth of industrial
 13019 hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field,
 13020 dealership, or process site.

13021 **§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic infractions and**
 13022 **other violations in district court; additional fees to be added.**

13023 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing
 13024 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of
 13025 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;
 13026 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic
 13027 school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a
 13028 finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-
 13029 251, *18.2-265.22*, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324,
 13030 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and
 13031 46.2-1158.02.

13032 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a
 13033 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure
 13034 to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed
 13035 fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that
 13036 incident. However, when a defendant who has multiple charges arising from the same incident and who has
 13037 been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same
 13038 incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed
 13039 and the higher fixed fee.

13040 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if
 13041 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

13042 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also
 13043 assess any costs otherwise specifically provided by statute.

13044 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there
 13045 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee
 13046 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

13047 1. Processing fee (General Fund) (.573770);

- 13048 2. Virginia Crime Victim-Witness Fund (.049180);
- 13049 3. Regional Criminal Justice Training Academies Fund (.016393);
- 13050 4. Courthouse Construction/Maintenance Fund (.032787);
- 13051 5. Criminal Injuries Compensation Fund (.098361);
- 13052 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 13053 7. Sentencing/supervision fee (General Fund) (.131148); and
- 13054 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).
- 13055 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-
- 13056 247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount
- 13057 collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds
- 13058 in the fractional amounts designated:
- 13059 1. Processing fee (General Fund)(.257353);
- 13060 2. Virginia Crime Victim-Witness Fund (.022059);
- 13061 3. Regional Criminal Justice Training Academies Fund (.007353);
- 13062 4. Courthouse Construction/Maintenance Fund (.014706);
- 13063 5. Criminal Injuries Compensation Fund (.044118);
- 13064 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 13065 7. Drug Offender Assessment and Treatment Fund (.551471);
- 13066 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 13067 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
- 13068 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The
- 13069 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following
- 13070 funds in the fractional amounts designated:
- 13071 1. Processing fee (General Fund) (.764706);
- 13072 2. Virginia Crime Victim-Witness Fund (.058824);
- 13073 3. Regional Criminal Justice Training Academies Fund (.019608);
- 13074 4. Courthouse Construction/Maintenance Fund (.039216);
- 13075 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 13076 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).
- 13077 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and other**
- 13078 **violations in district court; additional fees to be added.**
- 13079 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing
- 13080 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of
- 13081 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;
- 13082 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic
- 13083 school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a
- 13084 finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-
- 13085 251, 18.2-265.22, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-
- 13086 104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052,
- 13087 46.2-1053, and 46.2-1158.02.
- 13088 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a
- 13089 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure
- 13090 to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed
- 13091 fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that
- 13092 incident. However, when a defendant who has multiple charges arising from the same incident and who has
- 13093 been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same
- 13094 incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed
- 13095 and the higher fixed fee.
- 13096 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if
- 13097 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

13098 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also
13099 assess any costs otherwise specifically provided by statute.

13100 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there
13101 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee
13102 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 13103** 1. Processing fee (General Fund) (.573770);
- 13104** 2. Virginia Crime Victim-Witness Fund (.049180);
- 13105** 3. Regional Criminal Justice Training Academies Fund (.016393);
- 13106** 4. Courthouse Construction/Maintenance Fund (.032787);
- 13107** 5. Criminal Injuries Compensation Fund (.098361);
- 13108** 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 13109** 7. Sentencing/supervision fee (General Fund) (.131148); and
- 13110** 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

13111 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-
13112 247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount
13113 collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds
13114 in the fractional amounts designated:

- 13115** 1. Processing fee (General Fund)(.257353);
- 13116** 2. Virginia Crime Victim-Witness Fund (.022059);
- 13117** 3. Regional Criminal Justice Training Academies Fund (.007353);
- 13118** 4. Courthouse Construction/Maintenance Fund (.014706);
- 13119** 5. Criminal Injuries Compensation Fund (.044118);
- 13120** 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 13121** 7. Drug Offender Assessment and Treatment Fund (.551471);
- 13122** 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 13123** 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

13124 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The
13125 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following
13126 funds in the fractional amounts designated:

- 13127** 1. Processing fee (General Fund)(.764706);
- 13128** 2. Virginia Crime Victim-Witness Fund (.058824);
- 13129** 3. Regional Criminal Justice Training Academies Fund (.019608);
- 13130** 4. Courthouse Construction/Maintenance Fund (.039216);
- 13131** 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 13132** 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

13133 **§ 16.1-260. Intake; petition; investigation.**

13134 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a
13135 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as
13136 provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social
13137 Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of
13138 petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the
13139 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated
13140 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions
13141 relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court
13142 of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may
13143 complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster
13144 care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish
13145 or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
13146 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the
13147 petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging

13148 abuse or neglect of a child shall be referred initially to the local department of social services in accordance
13149 with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings
13150 in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is
13151 filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual
13152 who is receiving support services or public assistance shall be denied the right to file a petition or motion to
13153 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support
13154 services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion,
13155 together with notice of the court date, to the Division of Child Support Enforcement.

13156 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake
13157 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio
13158 communication is used, an intake officer may exercise all powers conferred by law. All communications and
13159 proceedings shall be conducted in the same manner as if the appearance were in person, and any documents
13160 filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person
13161 to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an
13162 original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video
13163 and audio communication system used for an appearance shall meet the standards as set forth in subsection B
13164 of § 19.2-3.1.

13165 When the court service unit of any court receives a complaint alleging facts which may be sufficient to
13166 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed
13167 informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition
13168 to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the
13169 issuance of the petition.

13170 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of
13171 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or
13172 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would
13173 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony
13174 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a
13175 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded
13176 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if
13177 committed by an adult.

13178 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the
13179 attendance officer has provided documentation to the intake officer that the relevant school division has
13180 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake
13181 officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the
13182 juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more
13183 than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2)
13184 the immediately previous informal action or adjudication occurred at least three calendar years prior to the
13185 current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis
13186 must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that
13187 the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such
13188 programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure
13189 the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may
13190 refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
13191 interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably
13192 available from the appropriate department of social services, community services board, local school division,
13193 court service unit, and other appropriate and available public and private agencies and may be the family
13194 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile
13195 has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the
13196 petition.

13197 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in
13198 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the
13199 juvenile, which may include restitution and the performance of community service, based upon community
13200 resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken
13201 by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's
13202 parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint
13203 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke
13204 the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

13205 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
13206 support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned,
13207 or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal
13208 custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services
13209 which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to §
13210 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order
13211 is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the
13212 respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases
13213 in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if
13214 the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be
13215 in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency
13216 other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
13217 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of
13218 the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-
13219 253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-
13220 152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and
13221 time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

13222 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
13223 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of
13224 supervision have utilized or attempted to utilize treatment and services available in the community and have
13225 exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines
13226 that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate
13227 nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of
13228 supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a
13229 petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort
13230 to utilize available community treatment or services may he permit the petition to be filed.

13231 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
13232 would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at
13233 that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that
13234 probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court.
13235 The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a
13236 petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention
13237 or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
13238 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child
13239 in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision
13240 is final.

13241 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake
13242 officer shall accept and file a petition founded upon the warrant.

13243 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which
13244 alleges facts of an offense which would be a felony if committed by an adult.

13245 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report
13246 with the division superintendent of the school division in which any student who is the subject of a petition

13247 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime
13248 if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within
13249 the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and
13250 the nature of the offense, if the violation involves:

- 13251** 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.),
13252 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
13253 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
13254 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
13255 18.2;
13256 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
13257 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
13258 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
13259 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of
13260 Title 18.2;
13261 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
13262 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
13263 9. Robbery pursuant to § 18.2-58;
13264 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
13265 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
13266 12. An act of violence by a mob pursuant to § 18.2-42.1;
13267 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
13268 14. A threat pursuant to § 18.2-60.

13269 The failure to provide information regarding the school in which the student who is the subject of the
13270 petition may be enrolled shall not be grounds for refusing to file a petition.

13271 The information provided to a division superintendent pursuant to this section may be disclosed only as
13272 provided in § 16.1-305.2.

13273 H. The filing of a petition shall not be necessary:

13274 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other
13275 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any
13276 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the
13277 court may proceed on a summons issued by the officer investigating the violation in the same manner as
13278 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of
13279 the accident or at any other location where a juvenile who is involved in such an accident may be located,
13280 proceed on a summons in lieu of filing a petition.

13281 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of §
13282 16.1-241.

13283 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any
13284 other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile is released to the custody
13285 of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a
13286 parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the
13287 parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the
13288 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 §
13289 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
13290 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-
13291 738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of
13292 the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a
13293 copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of
13294 § 4.1-305 ~~or 18.2-250.1~~ is charged by summons, the juvenile shall be entitled to have the charge referred to
13295 intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised
13296 by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a

13297 violation of § 4.1-305 ~~or 18.2-250.1~~ is served, the officer shall also serve upon the juvenile written notice of the
 13298 right to have the charge referred to intake on a form approved by the Supreme Court and make return of such
 13299 service to the court. If the officer fails to make such service or return, the court shall dismiss the summons
 13300 without prejudice.

13301 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4
 13302 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a
 13303 summons issued by the officer investigating the violation in the same manner as provided by law for adults
 13304 provided that notice of the summons to appear is mailed by the investigating officer within five days of the
 13305 issuance of the summons to a parent or legal guardian of the juvenile.

13306 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the
 13307 jurisdiction granted it in § 16.1-241.

13308 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
 13309 **statement.**

13310 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving
 13311 a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game
 13312 and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court
 13313 before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii)
 13314 may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the
 13315 physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang
 13316 as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation
 13317 of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after
 13318 January 1, 2000, which would be (a) a felony if committed by an adult, *or* (b) a violation under Article 1 (§
 13319 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
 13320 punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, ~~or (c) a violation of § 18.2-250.1~~, the
 13321 court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has
 13322 a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse
 13323 counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated
 13324 court services unit or by an individual employed by or currently under contract to such agencies and who is
 13325 specifically trained to conduct such assessments under the supervision of such counselor.

13326 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or
 13327 may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of
 13328 § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or
 13329 economic injury as a result of the violation of law.

13330 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests;**
 13331 **costs and fees; education or treatment programs.**

13332 Whenever any juvenile who has not previously been found delinquent of any offense under Article 1 (§
 13333 18.2-247 et seq.) of Chapter 7 of Title 18.2, *Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2*, or
 13334 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
 13335 depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of such
 13336 an offense dismissed as provided in § 18.2-251, is found delinquent of any offense concerning the use, in any
 13337 manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances,
 13338 the juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant
 13339 to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be
 13340 directed by the court. Such testing shall be conducted by a court services unit of the Department of Juvenile
 13341 Justice, or by a locally operated court services unit or by personnel of any program or agency approved by the
 13342 Department. The cost of such testing ordered by the court shall be paid by the Commonwealth from funds
 13343 appropriated to the Department for this purpose. The court shall also order the juvenile to undergo such
 13344 treatment or education program for substance abuse, if available, as the court deems appropriate based upon
 13345 consideration of the substance abuse assessment. The treatment or education shall be provided by a program
 13346 licensed by the Department of Behavioral Health and Developmental Services or by a similar program available

13347 through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally
 13348 operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act
 13349 (§ 16.1-309.2 et seq.).

13350 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**
 13351 **truancy.**

13352 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
 13353 the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any
 13354 county, city or town, (ii) a refusal to take a breath test in violation of § 18.2-268.2, (iii) a felony violation of §
 13355 18.2-248, 18.2-248.1 or 18.2-250, (iv) a misdemeanor violation of § 18.2-248, 18.2-248.1, or 18.2-250 or a
 13356 ~~violation of § 18.2-250.1 of Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2,~~ (v) the unlawful
 13357 purchase, possession or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession
 13358 of alcoholic beverages in or on public school grounds in violation of § 4.1-309, (vi) public intoxication in
 13359 violation of § 18.2-388 or a similar ordinance of a county, city or town, (vii) the unlawful use or possession of
 13360 a handgun or possession of a "streetsweeper" as defined below, or (viii) a violation of § 18.2-83, the court shall
 13361 order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be
 13362 denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a
 13363 violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the
 13364 court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense
 13365 involves a violation designated under clause (i), (ii), (iii) or (viii), the denial of a driver's license shall be for a
 13366 period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for
 13367 a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent
 13368 such offense. If the offense involves a violation designated under clause (iv), (v) or (vi) the denial of driving
 13369 privileges shall be for a period of six months unless the offense is committed by a child under the age of 16
 13370 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a
 13371 period of six months following the date he reaches the age of 16 and three months. If the offense involves a first
 13372 violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a
 13373 judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until
 13374 such time as the court disposes of the case pursuant to subsection F ~~of this section~~. If the offense involves a
 13375 violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of
 13376 the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a
 13377 violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30
 13378 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a
 13379 "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine
 13380 capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two
 13381 years unless the offense is committed by a child under the age of 16 years and three months, in which event the
 13382 child's ability to apply for a driver's license shall be delayed for a period of two years following the date he
 13383 reaches the age of 16 and three months.

13384 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and
 13385 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges
 13386 for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and
 13387 three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30
 13388 days following the date he reaches the age of 16 and three months.

13389 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a
 13390 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to
 13391 apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months,
 13392 as may be appropriate.

13393 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-
 13394 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
 13395 reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile
 13396 reaches the age of 18, whichever is longer, for a second or subsequent such offense.

13397 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
13398 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the
13399 physical custody of the court during any period of license denial.

13400 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
13401 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
13402 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
13403 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2,
13404 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts.
13405 No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
13406 results in an adjudication of guilt pursuant to subsection F.

13407 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's
13408 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the
13409 order of denial under subsection E.

13410 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection
13411 A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action
13412 program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the
13413 finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection
13414 A, such child may be referred to appropriate rehabilitative or educational services upon such terms and
13415 conditions as the court may set forth.

13416 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted
13417 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
13418 of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of §
13419 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and
13420 from home and school when school-provided transportation is available and no restricted license shall be issued
13421 if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it
13422 involves a second or subsequent violation of any offense designated in subsection A, a second finding by the
13423 court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a
13424 second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The
13425 issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to
13426 the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the
13427 child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order
13428 in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed
13429 pursuant to this section is guilty of a violation of § 46.2-301.

13430 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any
13431 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For
13432 a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year
13433 after its issuance.

13434 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
13435 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
13436 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the
13437 finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the
13438 child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without
13439 an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section
13440 in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication
13441 of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,
13442 the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions
13443 of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or
13444 (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under
13445 § 16.1-278.8.

13446 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

13447 There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which
 13448 shall consist of moneys received from (i) fees imposed on certain drug offense convictions pursuant to § 16.1-
 13449 69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for violations of ~~§ 18.2-~~
 13450 ~~250.1~~ 18.2-265.22. All interest derived from the deposit and investment of moneys in the Fund shall be credited
 13451 to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender
 13452 Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal
 13453 year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the
 13454 Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement
 13455 and operate the offender substance abuse screening and assessment program; the Department of Criminal
 13456 Justice Services for the support of community-based probation and local pretrial services agencies; and the
 13457 Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court
 13458 programs.

13459 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

13460 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
 13461 consumption or use of a controlled substance, alcohol, or any combination of such substances.

13462 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
 13463 consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance pursuant to § 18.2-250,
 13464 possession of marijuana pursuant to ~~§ 18.2-250.1~~ § 18.2-265.22, intoxication in public pursuant to § 18.2-388,
 13465 or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

13466 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is
 13467 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or
 13468 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical
 13469 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in §
 13470 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as
 13471 defined in § 9.1-101, or an emergency 911 system;

13472 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the
 13473 person requiring emergency medical attention has been transported until a law-enforcement officer responds to
 13474 the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the
 13475 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

13476 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
 13477 overdose; and

13478 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
 13479 the individual seeking or obtaining emergency medical attention.

13480 C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
 13481 attention for himself or another individual, or to a person experiencing an overdose when another individual
 13482 seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the
 13483 conduct of a lawful search or a lawful arrest.

13484 D. This section does not establish protection from arrest or prosecution for any individual or offense other
 13485 than those listed in subsection B.

13486 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
 13487 determined that the person arrested was immune from prosecution under this section.

13488 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

13489 No school nurse employed by a local school board, person employed by a local health department who is
 13490 assigned to the public school pursuant to an agreement between the local health department and the school
 13491 board, or other person employed by or contracted with a local school board to deliver health-related services
 13492 shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255, *or under Article 1.4* (§
 13493 18.2-265.22 *et seq.*) for the possession or distribution of cannabis oil for storing, dispensing, or administering
 13494 cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a
 13495 valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

13496 § 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing
13497 facilities; hospice and hospice facilities; assisted living facilities.

13498 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized
13499 to possess, distribute, or administer medications to patients or residents shall be prosecuted under § 18.2-248,
13500 18.2-248.1, or 18.2-250, or ~~18.2-250.1~~ under Article 1.4 (§ 18.2-265.22 et seq.) for the possession or
13501 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or
13502 resident who has been issued a valid written certification for the use of cannabis oil in accordance with
13503 subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

13504 § 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.

13505 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial
13506 hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed
13507 industrial hemp processor for the purpose of performing required testing shall be prosecuted under § 18.2-248,
13508 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255, or under Article 1.4 (§ 18.2-265.22 et seq.) for the possession
13509 or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing
13510 purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture
13511 and Consumer Services.

13512 § 18.2-308.09. Disqualifications for a concealed handgun permit.

13513 The following persons shall be deemed disqualified from obtaining a permit:

13514 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-
13515 308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the
13516 United States.

13517 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1,
13518 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any other state or
13519 of the United States.

13520 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged
13521 from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his
13522 application for a concealed handgun permit.

13523 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency
13524 or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a
13525 concealed handgun permit.

13526 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from
13527 commitment less than five years before the date of this application for a concealed handgun permit.

13528 5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-
13529 308.1:4 from purchasing, possessing, or transporting a firearm.

13530 6. (Effective until January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing or
13531 transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

13532 6. (Effective January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing or
13533 transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that
13534 section.

13535 7. An individual who has been convicted of two or more misdemeanors within the five-year period
13536 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge
13537 shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions
13538 and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

13539 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
13540 cannabinoids, or any controlled substance.

13541 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
13542 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the
13543 District of Columbia, the United States, or its territories within the three-year period immediately preceding the
13544 application.

13545 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

13546 11. An individual who has been discharged from the armed forces of the United States under dishonorable
13547 conditions.

13548 12. An individual who is a fugitive from justice.

13549 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the
13550 applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police,
13551 or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the
13552 opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying
13553 conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully
13554 or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the
13555 Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer,
13556 or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath
13557 before a notary public of a competent person having personal knowledge of the specific acts.

13558 14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of
13559 a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within
13560 the three-year period immediately preceding the application.

13561 15. An individual who has been convicted of stalking.

13562 16. An individual whose previous convictions or adjudications of delinquency were based on an offense
13563 that would have been at the time of conviction a felony if committed by an adult under the laws of any state,
13564 the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions
13565 occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from
13566 any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."
13567 Disqualification under this subdivision shall not apply to an individual with previous adjudications of
13568 delinquency who has completed a term of service of no less than two years in the Armed Forces of the United
13569 States and, if such person has been discharged from the Armed Forces of the United States, received an
13570 honorable discharge.

13571 17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision
13572 14 or 15.

13573 18. An individual who has received mental health treatment or substance abuse treatment in a residential
13574 setting within five years prior to the date of his application for a concealed handgun permit.

13575 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
13576 immediately preceding the application for the permit, was found guilty of any criminal offense set forth in
13577 Article 1 (§ 18.2-247 et seq.)~~or~~, former § 18.2-248.1:1, *or Article 1.4 (§ 18.2-265.22 et seq.)*, or of a criminal
13578 offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance,
13579 under the laws of any state, the District of Columbia, or the United States or its territories.

13580 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-
13581 year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1
13582 (§ 18.2-247 et seq.)~~or~~, former § 18.2-248.1:1, *or Article 1.4 (§ 18.2-265.22 et seq.)*, or upon a charge of illegal
13583 possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of
13584 any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of
13585 the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially
13586 similar law of any other state, the District of Columbia, or the United States or its territories.

13587 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses**
13588 **prohibited.**

13589 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses
13590 under subsection B of former § 18.2-248.1:1, § 18.2-250 or ~~18.2-250.1~~ *under Article 1.4 (§ 18.2-265.22 et seq.)*
13591 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from
13592 the date of the second conviction and provided the person has not been convicted of any such offense within
13593 that period, the ineligibility shall be removed.

13594 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

13595 A. In any preliminary hearing on a violation of Article 1 (§ 18.2-247 et seq.) *or Article 1.4* (§ 18.2-265.22
 13596 *et seq.*) of Chapter 7 of Title 18.2 or a violation of subdivision 6 of § 53.1-203, any law-enforcement officer
 13597 shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic
 13598 Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.),
 13599 regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance,
 13600 imitation controlled substance, or marijuana, as defined in § 18.2-247.

13601 B. In any trial for a violation of ~~§ 18.2-250.1~~ § 18.2-265.22, any law-enforcement officer shall be permitted
 13602 to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of
 13603 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-
 13604 4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided
 13605 the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be
 13606 on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

13607 In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ § 18.2-265.22, or the attorney of
 13608 record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to
 13609 trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the
 13610 court shall order that the analysis be performed by the Department of Forensic Science in accordance with the
 13611 provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence
 13612 submitted for chemical analysis.

13613 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**

13614 Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed
 13615 to fill an elective office, residing within the jurisdiction of the court:

13616 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of
 13617 duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the
 13618 conduct of the office;

13619 2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1
 13620 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

13621 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a
 13622 controlled substance ~~or marijuana~~;

13623 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
 13624 paraphernalia; or

13625 c. Possession of any controlled substance ~~or marijuana~~ and such conviction under subdivision a, b, or c has
 13626 a material adverse effect upon the conduct of such office;

13627 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime"
 13628 as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such
 13629 office; or

13630 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-
 13631 67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or
 13632 enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in
 13633 violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of
 13634 § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

13635 The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer
 13636 equal to ten percent of the total number of votes cast at the last election for the office that the officer holds.

13637 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently
 13638 subject to the provisions of this section for the same criminal offense.

13639 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

13640 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first
 13641 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the
 13642 Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or
 13643 cannabis dispensing facility. The Board shall establish an application fee and other general requirements for
 13644 such application.

13645 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits
13646 that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis
13647 dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed
13648 in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

13649 C. The Board shall adopt regulations establishing health, safety, and security requirements for
13650 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for
13651 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and
13652 resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely
13653 and securely dispensing and delivering in person cannabis oil to a registered patient, his registered agent, or, if
13654 such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian;
13655 (ix) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams
13656 of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of cannabis oil
13657 products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing
13658 facility; (xi) an allowance for the sale of devices for administration of dispensed products; (xii) an allowance
13659 for the use and distribution of inert product samples containing no cannabinoids for patient demonstration
13660 exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or
13661 sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp
13662 extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The
13663 Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for
13664 safely and securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of
13665 marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant
13666 remains; and (d) a process for registering cannabis oil products.

13667 D. The Board shall require that, after processing and before dispensing cannabis oil, a pharmaceutical
13668 processor shall make a sample available from each homogenized batch of product for testing by an independent
13669 laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined
13670 by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures.
13671 A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized
13672 batch is required to achieve a representative sample for analysis.

13673 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
13674 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board
13675 in regulation.

13676 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision
13677 of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A
13678 pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas
13679 designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the
13680 premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate
13681 to protect the cannabis from diversion at all times.

13682 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility
13683 permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his
13684 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the
13685 purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and
13686 the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall
13687 forward the results of the criminal history background check to the Board or its designee, which shall be a
13688 governmental entity.

13689 H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
13690 individuals who may have less than two years of experience (i) to perform cultivation-related duties under the
13691 supervision of an individual who has received a degree in horticulture or a certification recognized by the Board
13692 or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under
13693 the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of
13694 experience extracting chemicals from plants.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et seq.)~~or~~, Article 1.1 (§ 18.2-265.1 et seq.), *Article 1.4* (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time.

M. Any person who proposes to use an automated process or procedure during the production of cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-3307.2.

N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before oil from industrial hemp may be acquired.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, or ~~18.2-250.1~~ *under Article 1.4* (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the provisions of this article and Board regulations.

3. That §§ 18.2-248.1, 18.2-251.1, and 19.2-389.3 of the Code of Virginia are repealed.

4. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, eighteenth, nineteenth, twentieth, and twenty-first enactments of this act, the provisions of this act shall become effective on January 1, 2023.

5. That the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2, §§ 4.1-601 through 4.1-633, 15.2-1627, 16.1-228, Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2, § 19.2-392.2, except clause (v) of subsection A, and § 46.2-341.20:7 of the Code of Virginia, as created by this act, shall become effective on July 1, 2021.

6. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall promulgate regulations to implement the provision of this act by July 1, 2023. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this act. Prior to adopting any regulation pursuant to this act, 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

13745 contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the
13746 name, address, and telephone number of the agency contact person responsible for receiving public
13747 comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice
13748 for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014
13749 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant
13750 to this act. The Board shall consider and keep on file all public comments received for any regulation
13751 adopted pursuant to this act.

13752 7. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications
13753 for licenses under this act on July 1, 2023, and shall, from July 1, 2023, until December 31, 2023, give
13754 preference to qualified social equity applicants, as determined by regulations promulgated by the Board
13755 of Directors of the Authority in accordance with this act. The Authority may issue any license authorized
13756 by this act to any applicant who meets the requirements for licensure established by this act and by any
13757 regulations promulgated by the Board of Directors of the Authority in accordance with this act.
13758 Notwithstanding the fourth enactment of this act, any applicant issued a license by the Authority may
13759 operate in accordance with the provisions of this act prior to January 1, 2024; however, no retail
13760 marijuana store licensee may sell retail marijuana or retail marijuana products to a consumer prior to
13761 January 1, 2024. If a limit is placed on the number of licenses to be granted pursuant to this act, the
13762 Authority shall (i) from July 1, 2023, to July 1, 2028, reserve a license slot for a qualified social equity
13763 applicant for every license that was initially granted to a social equity applicant and was subsequently
13764 surrendered; and (ii) reserve license slots for all cannabis dispensing facilities and pharmaceutical
13765 processors that have been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-
13766 3442.5 et seq.) of the Drug Control Act and issue a cultivation, manufacturing, wholesale, or retail license
13767 to any such cannabis dispensing facility or pharmaceutical processor that meets the applicable licensing
13768 requirements. The Authority shall develop and implement its diversity, equity, and inclusion plan
13769 pursuant to § 4.1-604 of the Code of Virginia, as created by this act, and publish resources to assist social
13770 equity applicants by January 1, 2023. The Authority shall, in consultation with the Secretaries of Public
13771 Safety and Homeland Security, Transportation, and Health and Human Resources, develop and
13772 implement a health, safety, and safe driving campaign by January 1, 2023.

13773 8. That the initial terms of office of those persons appointed to serve as nonlegislative citizen members
13774 on the Cannabis Control Advisory Board pursuant to § 4.1-602 of the Code of Virginia, as created by
13775 this act, shall be staggered as follows: one member appointed by the Senate Committee on Rules, one
13776 member appointed by the Speaker of the House, and one member appointed by the Governor for a term
13777 of two years; one member appointed by the Senate Committee on Rules, one member appointed by the
13778 Speaker of the House, and one member appointed by the Governor for a term of three years; and one
13779 member appointed by the Senate Committee on Rules, one member appointed by the Speaker of the
13780 House, and one member appointed by the Governor for a term of four years.

13781 9. That the initial terms of office of those persons appointed to serve as nonlegislative citizen members
13782 on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of Virginia, as created
13783 by this act, shall be staggered as follow: five persons shall be appointed for a term to expire June 30,
13784 2025; four persons shall be appointed for a term to expire June 30, 2026; and four persons shall be
13785 appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the Cannabis
13786 Equity Reinvestment Board shall serve for terms of four years.

13787 10. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
13788 members on the Cannabis Public Health Advisory Council pursuant to § 4.1-603 of the Code of Virginia,
13789 as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire
13790 June 30, 2025; five persons shall be appointed for a term to expire June 30, 2026; and four persons shall
13791 be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the
13792 Cannabis Public Health Advisory Council shall serve for terms of four years.

13793 11. That the Board of Agriculture and Consumer Services shall promulgate regulations to implement
13794 the applicable provisions of this act by July 1, 2022.

13795 12. That the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public
13796 Safety and Homeland Security shall convene a work group with all appropriate state agencies and
13797 authorities to develop a plan for identifying and collecting data that can determine the use and misuse of
13798 marijuana in order to determine appropriate policies and programs to promote public health and safety.
13799 The plan shall include marijuana-related data regarding (i) poison control center calls; (ii) hospital and
13800 emergency room visits; (iii) impaired driving; (iv) use rates, including heavy or frequent use, mode of
13801 use, and demographic information for vulnerable populations, including youth and pregnant women;
13802 and (v) treatment rates for cannabis use disorder and any other diseases related to marijuana use. The
13803 plan shall detail the categories for which each data source will be collected, including the region where
13804 the individual lives or the incident occurred and the age and race or ethnicity of the individual. The plan
13805 shall also include the means by which initial data will be collected as soon as practicable as a benchmark
13806 prior to the effective date of an act legalizing marijuana for adult use, the plan for regular collection of
13807 such data thereafter, and the cost of the initial and ongoing collection of such data. The plan shall also
13808 recommend a timetable and determine the cost for analyzing and reporting the data. The work group, in
13809 consultation with the Director of Diversity, Equity, and Inclusion, shall also recommend metrics to
13810 identify disproportionate impacts of marijuana legalization, if any, to include discrimination in the
13811 Commonwealth's cannabis industry. The work group shall report its findings and recommendations to
13812 the Governor and the General Assembly by November 1, 2021.

13813 13. That the Virginia Department of Education (the Department), with assistance from appropriate
13814 agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that teachers
13815 have access to sufficient information, resources, and lesson ideas to assist them in teaching about the
13816 harms of marijuana use among the youth and about substance abuse, as provided in the 2020 Health
13817 Standards of Learning. The Department shall (i) review resources currently provided to teachers to
13818 determine if additional or updated material or lesson ideas are needed and (ii) provide or develop any
13819 additional materials and resources deemed necessary and make the same available to teachers by
13820 January 1, 2024.

13821 14. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall
13822 develop a plan for introducing teachers, particularly those teaching health, to the information and
13823 resources available to them to assist them in teaching the 2020 Health Standards of Learning as it relates
13824 to marijuana use. Such plan shall include providing professional development webinars as soon as
13825 practicable, as well as ongoing periodic professional development relating to marijuana, as well as
13826 alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of
13827 implementation and any potential source of funds to cover such cost and shall be submitted to the
13828 Governor and the General Assembly by November 1, 2021.

13829 15. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia
13830 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and
13831 Developmental Services shall work with existing collegiate recovery programs to determine what, if any,
13832 additional evidence-based efforts should be undertaken for college-aged individuals to promote
13833 education and prevention strategies relating to marijuana. The plan shall include the estimated cost of
13834 implementation and any potential source of funds to cover such cost and shall be submitted to the
13835 Governor and the General Assembly by November 1, 2021.

13836 16. That the referendum authorized by § 4.1-629 of the Code of Virginia, as created by this act, on
13837 the question of whether the operation of retail marijuana stores shall be prohibited in a particular county,
13838 city, or town may be held by such county, city, or town between January 1, 2022, and December 31, 2023,
13839 and the results of such referendum shall become effective on January 1, 2024.

13840 17. That effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-
13841 60) promulgated by the Board of Pharmacy (the Board) shall remain in full force and effect and continue
13842 to be administered by the Board of Pharmacy until the Board of Directors of the Virginia Cannabis
13843 Control Authority (the Authority) promulgates regulations pursuant to the sixth enactment of this act

13844 and no later than July 1, 2023. The Board shall provide assistance to the Board of Directors of the
13845 Authority in promulgating regulations by July 1, 2023.

13846 18. That the provisions of this act may result in a net increase in periods of imprisonment or
13847 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
13848 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;
13849 therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing
13850 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
13851 Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of
13852 commitment to the custody of the Department of Juvenile Justice.

13853 19. That § 18.2-250.1 of the Code of Virginia is repealed.

13854 20. That the provisions of Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 of the Code of
13855 Virginia, as created by this act, shall expire on January 1, 2023.

13856 21. That the provisions of the second enactment of this act shall become effective in due course.

13857 22. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth,
13858 thirteenth, fourteenth, fifteenth, sixteenth, eighteenth, nineteenth, twentieth, and twenty-first enactments
13859 of this act, the provisions of this act shall not become effective unless reenacted by the 2022 Session of the
13860 General Assembly.

13861 23. That there shall be established a Cannabis Oversight Commission (the Commission), which shall
13862 consist of 18 members of the General Assembly as follows: three members appointed by the Chairman
13863 of the Senate Committee on Finance and Appropriations; three members appointed by the Chairman of
13864 the Senate Committee on the Judiciary; three members appointed by the Chairman of the Senate
13865 Committee on Rehabilitation and Social Services; three members appointed by the Chairman of the
13866 House Committee on Appropriations; three members appointed by the Chairman of the House
13867 Committee for Courts of Justice; and three members appointed by the Chairman of the House
13868 Committee on General Laws. The Commission shall exercise the function of overseeing the
13869 implementation of the provisions of this act and shall convene regularly in the exercise of that function.
13870 The Virginia Cannabis Control Authority (the Authority) shall report to the Commission at the
13871 Commission's request. The Commission shall expire on January 1, 2024. The provisions of this enactment
13872 shall become effective in due course.

13873 24. That it shall be the duty of the officers conducting the November 2021 general election, at the
13874 places appointed for holding the same, to open a poll and take the sense of the qualified voters on the
13875 question stated below.

13876 QUESTION: "Should the state legalize the sale of recreational marijuana from privately licensed
13877 retailers, wholesalers, and growers for use by adults?"

13878 The ballots shall be prepared, distributed, and voted, and the results thereof ascertained and
13879 certified, in the manner prescribed by Title 24.2 of the Code of Virginia, and information on the proposed
13880 question shall be prepared and distributed in accordance with the provisions of § 30-19.10 of the Code of
13881 Virginia.

13882 The expenses incurred in conducting this referendum shall be defrayed as in the case of other
13883 November general elections.

13884 The results of the referendum shall be advisory only.

13885 The provisions of this enactment shall become effective in due course.