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VIRGINIA ACTS OF ASSEMBLY -- CHAPTER

2 *An Act 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,*
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-*
4 *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-*
5 *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-*
6 *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-*
7 *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*
8 *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-*
9 *201, as it is currently effective and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective*
10 *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-*
11 *212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective*
12 *and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-*
13 *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-*
14 *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,*
15 *4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective*
16 *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*
17 *shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-*
18 *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*
19 *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-*
20 *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,*
21 *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-*
22 *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,*
23 *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,*
24 *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,*
25 *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-*
26 *386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-*
27 *389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.4, 22.1-*
28 *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-*
29 *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*
30 *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*
31 *article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections*
32 *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,*
33 *by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6*
34 *through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered II, consisting of chapters numbered 6*
35 *through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter*
36 *1 of Title 6.2 a section numbered 6.2-107.1, and by adding sections numbered 19.2-392.2:1, 19.2-392.2:2,*
37 *and 46.2-341.20:7; and to repeal §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia,*
38 *relating to marijuana; legalization of simple possession; penalties.*

39

[H 2312]

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Approved

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Be it enacted by the General Assembly of Virginia:

42 **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,**
43 **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**
44 **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-**
45 **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-**
46 **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-**
47 **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**
48 **currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective**

49 and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective,
 50 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
 51 as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective,
 52 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,
 53 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and
 54 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
 55 and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-
 56 320, 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
 57 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-
 58 350, 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
 59 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
 60 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,
 61 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-
 62 251.1:1, 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-
 63 258.02, 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,
 64 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-
 65 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
 66 effective and as it shall become effective, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall
 67 become effective, 19.2-392.1, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613,
 68 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-
 69 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
 70 by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1
 71 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1
 72 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6,
 73 consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered
 74 II, containing chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-
 75 1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, and by adding sections
 76 numbered 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7 as follows:

77 **§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.**

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

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

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

- 89 1. Work with and through others, including federal, state, and local officials as well as the private sector,
 90 to develop a seamless, coordinated security and preparedness strategy and implementation plan.
- 91 2. Serve as the point of contact with the federal Department of Homeland Security.
- 92 3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism
 93 management plans for the state and its agencies in coordination with the Virginia Department of Emergency
 94 Management and other applicable state agencies.
- 95 4. Work with federal officials to obtain additional federal resources and coordinate policy development and
 96 information exchange.

- 97 5. Work with and through appropriate members of the Governor's Cabinet to coordinate working
98 relationships between state agencies and take all actions necessary to ensure that available federal and state
99 resources are directed toward safeguarding Virginia and its citizens.
- 100 6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-related
101 preparedness federal grant requests from state agencies and localities are used to enhance interoperability. The
102 Secretary shall ensure that the annual review and update of the statewide interoperability strategic plan is
103 conducted as required in § 2.2-222.2. The Commonwealth Interoperability Coordinator shall establish an
104 advisory group consisting of representatives of state and local government and constitutional offices, broadly
105 distributed across the Commonwealth, who are actively engaged in activities and functions related to
106 communications interoperability.
- 107 7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated security and
108 preparedness strategy, including the National Capital Region Senior Policy Group organized as part of the
109 federal Urban Areas Security Initiative.
- 110 8. Serve as a direct liaison between the Governor and local governments and first responders on issues of
111 emergency prevention, preparedness, response, and recovery.
- 112 9. Educate the public on homeland security and overall preparedness issues in coordination with applicable
113 state agencies.
- 114 10. Serve as chairman of the Secure and Resilient Commonwealth Panel.
- 115 11. Encourage homeland security volunteer efforts throughout the state.
- 116 12. Coordinate the development of an allocation formula for State Homeland Security Grant Program funds
117 to localities and state agencies in compliance with federal grant guidance and constraints. The formula shall be,
118 to the extent permissible under federal constraints, based on actual risk, threat, and need.
- 119 13. Work with the appropriate state agencies to ensure that regional working groups are meeting regularly
120 and focusing on regional initiatives in training, equipment, and strategy to ensure ready access to response
121 teams in times of emergency and facilitate testing and training exercises for emergencies and mass casualty
122 preparedness.
- 123 14. Provide oversight and review of the Virginia Department of Emergency Management's annual statewide
124 assessment of local and regional capabilities, including equipment, training, personnel, response times, and
125 other factors.
- 126 15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts,
127 investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and
128 fix their compensation to be payable from funds made available for that purpose.
- 129 16. Receive and accept from any federal or private agency, foundation, corporation, association, or person
130 grants, donations of money, real property, or personal property for the benefit of the Commonwealth, and
131 receive and accept from the Commonwealth or any state, any municipality, county, or other political subdivision
132 thereof, or any other source, aid or contributions of money, property, or other things of value, to be held, used,
133 and applied for the purposes for which such grants and contributions may be made.
- 134 17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other
135 things of value to be held, used, and applied to carry out these requirements subject to the conditions upon
136 which the aid, grants, or contributions are made.
- 137 18. Make grants to local governments, state and federal agencies, and private entities with any funds of the
138 Secretary available for such purpose.
- 139 19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control
140 Authority *and the Virginia Cannabis Control Authority*.
- 141 20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied
142 to this Secretary and not otherwise inconsistent with the law of the Commonwealth.
- 143 **§ 2.2-507. Legal service in civil matters.**
- 144 A. All legal service in civil matters for the Commonwealth, the Governor, and every state department,
145 institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct
146 of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

200 **§ 2.2-511. Criminal cases.**

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

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

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

244 **§ 2.2-1119. Cases in which purchasing through Division not mandatory.**

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

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

267 *Article 29.*

268 *Cannabis Equity Reinvestment Board.*

269 **§ 2.2-2499.1. Cannabis Equity Reinvestment Board; purpose; membership; quorum; meetings.**

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

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

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

296 *Ex officio members of the Board shall serve terms coincident with their terms of office. After the initial*
297 *staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments*
298 *to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled*
299 *in the same manner as the original appointments. All members may be reappointed.*

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

304 **§ 2.2-2499.2. Compensation; expenses.**

305 *Members shall receive no compensation for the performance of their duties but shall be reimbursed for all*
306 *reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and*
307 *2.2-2825.*

308 **§ 2.2-2499.3. Powers and duties of the Board.**

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

310 *1. Support persons, families, and communities historically and disproportionately targeted and affected by*
311 *drug enforcement;*

312 *2. Develop and implement scholarship programs and educational and vocational resources for historically*
313 *marginalized persons, including persons in foster care, who have been adversely impacted by substance use*
314 *individually, in their families, or in their communities.*

315 *3. Develop and implement a program to award grants to support workforce development programs,*
316 *mentoring programs, job training and placement services, apprenticeships, and reentry services that serve*
317 *persons and communities historically and disproportionately targeted by drug enforcement.*

318 *4. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4.*

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

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

329 *7. Perform such other activities and functions as the Governor and General Assembly may direct.*

330 **§ 2.2-2499.4. Cannabis Equity Reinvestment Fund.**

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

338 *1. Supporting persons, families, and communities historically and disproportionately targeted and affected*
339 *by drug enforcement;*

340 *2. Providing scholarship opportunities and educational and vocational resources for historically*
341 *marginalized persons, including persons in foster care, who have been adversely impacted by substance use*
342 *individually, in their families, or in their communities;*

343 *3. Awarding grants to support workforce development, mentoring programs, job training and placement*
344 *services, apprenticeships, and reentry services that serve persons and communities historically and*
345 *disproportionately targeted by drug enforcement.*

346 4. *Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and*
347 5. *Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.*
348 *Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued*
349 *by the Comptroller upon written request signed by the Director of Diversity, Equity, and Inclusion.*

350 **§ 2.2-2818. Health and related insurance for state employees.**

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

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

362 B. The plan shall:

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

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

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

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

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

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

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

390 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the
391 resolution of such complaints and shall be published and disseminated to all covered state employees. The
392 appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured
393 governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure
394 that shall provide resolution within time frames established by federal law. For appeals involving adverse
395 decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review

396 organizations to review such decisions. Independent review organizations are entities that conduct independent
397 external review of adverse benefit determinations. The Department shall adopt regulations to assure that the
398 independent review organization conducting the reviews has adequate standards, credentials and experience for
399 such review. The independent review organization shall examine the final denial of claims to determine whether
400 the decision is objective, clinically valid, and compatible with established principles of health care. The decision
401 of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material
402 issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

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

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

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

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

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

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

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

443 9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast
444 surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for
445 breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the

446 two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to
447 preexisting conditions.

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

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

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

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

479 14. Include provisions allowing employees to continue receiving health care services for a period of up to
480 90 days from the date of the primary care physician's notice of termination from any of the plan's provider
481 panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except
482 when the provider is terminated for cause.

483 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
484 provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to
485 render health care services to any of the covered employees who (i) were in an active course of treatment from
486 the provider prior to the notice of termination and (ii) request to continue receiving health care services from
487 the provider.

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

493 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering
494 health services to any covered employee who is determined to be terminally ill (as defined under §
495 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when

496 a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the
497 remainder of the employee's life for care directly related to the treatment of the terminal illness.

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

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

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

507 For purposes of this subdivision:

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

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

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

517 "NCI" means the National Cancer Institute.

518 "NIH" means the National Institutes of Health.

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

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

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

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

529 a. The National Cancer Institute;

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

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

532 d. The federal Department of Veterans Affairs; or

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

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

537 Coverage under this subdivision shall apply only if:

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

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

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

544 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered
545 employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee

546 following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines.
547 Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the
548 attending physician, in consultation with the covered employee, determines that a shorter hospital stay is
549 appropriate.

550 17. Include coverage for biologically based mental illness.

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

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

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

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

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

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

591 21. Include coverage for infant hearing screenings and all necessary audiological examinations provided
592 pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration,
593 and as recommended by the national Joint Committee on Infant Hearing in its most current position statement
594 addressing early hearing detection and intervention programs. Such coverage shall include follow-up

595 audiological examinations as recommended by a physician, physician assistant, nurse practitioner or audiologist
596 and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

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

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

608 D. For the purposes of this section:

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

615 "Standard reference compendia" means:

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

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

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

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

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

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

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

642 H. Any self-insured group health insurance plan established by the Department of Human Resource
643 Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the
644 prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and

645 updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a
646 majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health
647 care providers.

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

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

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

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

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

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

670 The Ombudsman shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

724 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

725 The provisions of this chapter shall not apply to:

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

- 743 13. The employees of the Virginia Workers' Compensation Commission;
- 744 14. The officers and employees of the Virginia Retirement System;
- 745 15. Employees whose positions are identified by the State Council of Higher Education and the boards of
- 746 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,
- 747 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,
- 748 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of
- 749 the Department of Human Resource Management as requiring specialized and professional training;
- 750 16. Employees of the Virginia Lottery;
- 751 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and
- 752 service industries who have a human resources classification of industry worker;
- 753 18. Employees of the Virginia Commonwealth University Health System Authority;
- 754 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such
- 755 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.
- 756 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center
- 757 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State
- 758 Grievance Procedure (§ 2.2-3000 et seq.);
- 759 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or
- 760 equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or
- 761 administration. An employee serving in either one of these two positions shall be deemed to serve on an
- 762 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
- 763 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions
- 764 of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 765 22. Officers and employees of the Virginia Port Authority;
- 766 23. Employees of the Virginia College Savings Plan;
- 767 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
- 768 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-
- 769 707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et
- 770 seq.);
- 771 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state
- 772 employees for purposes of participation in the Virginia Retirement System, health insurance, and all other
- 773 employee benefits offered by the Commonwealth to its classified employees;
- 774 26. Employees of the Virginia Indigent Defense Commission;
- 775 27. Any chief of a campus police department that has been designated by the governing body of a public
- 776 institution of higher education as exempt, pursuant to § 23.1-809;
- 777 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage
- 778 Control Authority; ~~and~~
- 779 29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control*
- 780 *Authority; and*
- 781 30. Officers and employees of the Fort Monroe Authority.
- 782 **§ 2.2-3114. Disclosure by state officers and employees.**
- 783 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor,
- 784 Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court,
- 785 judges and substitute judges of any district court, members of the State Corporation Commission, members of
- 786 the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board,
- 787 members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the
- 788 Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia Cannabis*
- 789 *Control Authority*, members of the Board of the Virginia College Savings Plan, and members of the Virginia
- 790 Lottery Board and other persons occupying such offices or positions of trust or employment in state
- 791 government, including members of the governing bodies of authorities, as may be designated by the Governor,
- 792 or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the

793 General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure
794 statement of their personal interests and such other information as is required on the form prescribed by the
795 Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

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

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

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

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

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

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

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

844 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.**

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

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

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

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

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

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

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

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

891 agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and
892 the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of
893 the person who is the subject of the complaint may be released only with the consent of the subject person.
894 Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

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

899 9. Records of active investigations being conducted by the Department of Criminal Justice Services
900 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
901 Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

902 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-
903 253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized
904 alteration, or improper administration of tests by local school board employees responsible for the distribution
905 or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i)
906 a local school board or division superintendent for the purpose of permitting such board or superintendent to
907 consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a
908 review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or
909 supplying information to the Board on a confidential basis and (b) does not compromise the security of any test
910 mandated by the Board.

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

927 12. Information provided in confidence and related to an investigation by the Attorney General under
928 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-
929 246.6 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
930 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six
931 months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does
932 not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other
933 individuals involved in the investigation.

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

936 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

938 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
939 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
940 officers, appointees, or employees of any public body; and evaluation of performance of departments or schools

941 of public institutions of higher education where such evaluation will necessarily involve discussion of the
942 performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in
943 which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student
944 and the student involved in the matter is present, provided the teacher makes a written request to be present to
945 the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to
946 authorize a closed meeting by a local governing body or an elected school board to discuss compensation
947 matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

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

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

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

- 991 12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared
992 by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.
- 993 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
994 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by
995 the member, provided the member may request in writing that the committee meeting not be conducted in a
996 closed meeting.
- 997 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
998 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
999 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
1000 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
1001 All discussions with the applicant or its representatives may be conducted in a closed meeting.
- 1002 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity
1003 and estimating general and nongeneral fund revenues.
- 1004 16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision
1005 1 of § 2.2-3705.5.
- 1006 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1007 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
1008 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information
1009 and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11
1010 of § 2.2-3705.7.
- 1011 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
1012 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
1013 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of
1014 an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services,
1015 the disclosure of which is likely to jeopardize the prisoner's life or safety.
- 1016 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
1017 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
1018 service officials concerning actions taken to respond to such matters or a related threat to public safety;
1019 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
1020 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
1021 information technology system, or software program; or discussion of reports or plans related to the security of
1022 any governmental facility, building or structure, or the safety of persons using such facility, building or
1023 structure.
- 1024 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any
1025 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust
1026 established by one or more local public bodies to invest funds for postemployment benefits other than pensions,
1027 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
1028 University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan,
1029 acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership
1030 interest in an entity, where such security or ownership interest is not traded on a governmentally regulated
1031 securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board
1032 of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of
1033 trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or
1034 board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value
1035 of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse
1036 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local
1037 finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College
1038 Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to
1039 the identity of any investment held, the amount invested or the present value of such investment.

1040 21. Those portions of meetings in which individual child death cases are discussed by the State Child
1041 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
1042 child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-
1043 283.2, those portions of meetings in which individual death cases are discussed by family violence fatality
1044 review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death
1045 cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions
1046 of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team
1047 established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed
1048 by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which
1049 individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8,
1050 and those portions of meetings in which individual death cases of persons with developmental disabilities are
1051 discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1052 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia
1053 Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom
1054 management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School,
1055 as the case may be, have been delegated, in which there is discussed proprietary, business-related information
1056 pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School,
1057 as the case may be, including business development or marketing strategies and activities with existing or future
1058 joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern
1059 Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health
1060 care, if disclosure of such information would adversely affect the competitive position of the Medical Center
1061 or Eastern Virginia Medical School, as the case may be.

1062 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the
1063 board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition
1064 by the Authority of real property, equipment, or technology software or hardware and related goods or services,
1065 where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters
1066 relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or
1067 work to be performed by the Authority; marketing or operational strategies plans of the Authority where
1068 disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and
1069 members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

1070 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
1071 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
1072 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1073 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal
1074 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
1075 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
1076 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1077 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
1078 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-
1079 484.12, related to the provision of wireless E-911 service.

1080 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1081 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
1082 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings
1083 of health regulatory boards or conference committees of such boards to consider settlement proposals in pending
1084 disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

1085 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
1086 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800,
1087 or any independent review panel appointed to review information and advise the responsible public entity
1088 concerning such records.

- 1089 29. Discussion of the award of a public contract involving the expenditure of public funds, including
1090 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an
1091 open session would adversely affect the bargaining position or negotiating strategy of the public body.
- 1092 30. Discussion or consideration of grant or loan application information subject to the exclusion in
1093 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.
- 1094 31. Discussion or consideration by the Commitment Review Committee of information subject to the
1095 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
1096 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.
- 1097 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
1098 held by a local public body providing certain telecommunication services or cable television services and
1099 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision
1100 shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).
- 1101 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
1102 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject
1103 to the exclusion in subdivision 19 of § 2.2-3705.6.
- 1104 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
1105 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.
- 1106 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
1107 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject
1108 to the exclusion in subdivision B 1 of § 2.2-3706.
- 1109 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information
1110 or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the
1111 Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship
1112 applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.
- 1113 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
1114 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
1115 Authority.
- 1116 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant
1117 to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local
1118 retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting
1119 pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed
1120 pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.
- 1121 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
1122 related to economic development.
- 1123 40. Discussion or consideration by the Board of Education of information relating to the denial, suspension,
1124 or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.
- 1125 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
1126 executive order for the purpose of studying and making recommendations regarding preventing closure or
1127 realignment of federal military and national security installations and facilities located in Virginia and relocation
1128 of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing
1129 body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.
- 1130 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1131 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1132 information of donors.
- 1133 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information
1134 subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant
1135 applications.
- 1136 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
1137 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for

1138 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
1139 information of a private entity provided to the Authority.

1140 45. Discussion or consideration of personal and proprietary information related to the resource management
1141 plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-
1142 104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that
1143 has been certified for release by the person who is the subject of the information or transformed into a statistical
1144 or aggregate form that does not allow identification of the person who supplied, or is the subject of, the
1145 information.

1146 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
1147 Authority *or the Board of Directors of the Virginia Cannabis Control Authority* of information subject to the
1148 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and
1149 of licensees and permittees.

1150 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in
1151 subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of
1152 Chapter 22.

1153 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
1154 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
1155 Board.

1156 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
1157 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
1158 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases
1159 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
1160 63.2-1605.

1161 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority,
1162 the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the
1163 strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-
1164 3705.7.

1165 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
1166 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
1167 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

1168 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
1169 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
1170 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1171 53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-
1172 4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration,
1173 or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

1174 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
1175 the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any
1176 discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure
1177 under subdivision 1 of § 2.2-3705.3.

1178 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
1179 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and
1180 takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall
1181 have its substance reasonably identified in the open meeting.

1182 C. Public officers improperly selected due to the failure of the public body to comply with the other
1183 provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain
1184 notice of the legal defect in their election.

1185 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
1186 public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding
1187 closed meetings as are applicable to any other public body.

1188 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
 1189 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
 1190 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development
 1191 and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds
 1192 by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such
 1193 business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of
 1194 the board's authorization of the sale or issuance of such bonds.

1195 **§ 2.2-3802. Systems to which chapter inapplicable.**

1196 The provisions of this chapter shall not apply to personal information systems:

- 1197 1. Maintained by any court of the Commonwealth;
- 1198 2. Which may exist in publications of general circulation;
- 1199 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the
 1200 Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to
 1201 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the
 1202 Internet pursuant to § 9.1-913;
- 1203 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-
 1204 225;
- 1205 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to
 1206 engage in the practice of any profession, in which case the names and addresses of persons applying for or
 1207 possessing the license may be disseminated upon written request to a person engaged in the profession or
 1208 business of offering professional educational materials or courses for the sole purpose of providing the licensees
 1209 or applicants for licenses with informational materials relating solely to available professional educational
 1210 materials or courses, provided the disseminating agency is reasonably assured that the use of the information
 1211 will be so limited;
- 1212 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,
 1213 the Virginia Racing Commission, ~~and~~ the Virginia Alcoholic Beverage Control Authority, *and the Virginia*
 1214 *Cannabis Control Authority*;
- 1215 7. Maintained by any of the following and that deal with investigations and intelligence gathering related
 1216 to criminal activity:
 - 1217 a. The Department of State Police;
 - 1218 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - 1219 c. Police departments of cities, counties, and towns;
 - 1220 d. Sheriff's departments of counties and cities;
 - 1221 e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-
 1222 809 et seq.) of Chapter 8 of Title 23.1; and
 - 1223 f. The Division of Capitol Police.
- 1224 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while
 1225 such cases are also subject to an ongoing criminal prosecution;
- 1226 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
- 1227 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of
 1228 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information
 1229 on those subjects may be disseminated upon written request to a person engaged in the business of providing
 1230 travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured
 1231 that the use of the information will be so limited;
- 1232 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services
 1233 and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity
 1234 or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
- 1235 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with
 1236 investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et
 1237 seq.);

1238 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies
1239 or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline
1240 or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals
1241 with local investigations required by § 15.2-2511.2;

1242 14. Maintained by the Department of Social Services or any local department of social services relating to
1243 public assistance fraud investigations;

1244 15. Maintained by the Department of Social Services related to child welfare or public assistance programs
1245 when requests for personal information are made to the Department of Social Services. Requests for information
1246 from these systems shall be made to the appropriate local department of social services that is the custodian of
1247 that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining
1248 information from the central registry in accordance with the provisions of § 63.2-1515; and

1249 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult
1250 protective services, or auxiliary grants when requests for personal information are made to the Department for
1251 Aging and Rehabilitative Services. Requests for information from these systems shall be made to the
1252 appropriate local department of social services that is the custodian of that record.

1253 **§ 2.2-4024. Hearing officers.**

1254 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a
1255 hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained
1256 in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings
1257 conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at
1258 the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may promulgate
1259 rules necessary for the administration of the hearing officer system and shall have the authority to establish the
1260 number of hearing officers necessary to preside over administrative hearings in the Commonwealth.

1261 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1262 1. Active membership in good standing in the Virginia State Bar;

1263 2. Active practice of law for at least five years; and

1264 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order
1265 to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive
1266 Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that
1267 agency.

1268 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the
1269 list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic
1270 preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency
1271 demonstrates the need.

1272 C. A hearing officer appointed in accordance with this section shall be subject to disqualification as
1273 provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1,
1274 the petitioning party may request reconsideration of the denial by filing a written request with the Executive
1275 Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the
1276 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of
1277 practice requiring disqualification.

1278 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1279 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case
1280 decision matter shall render that recommendation or conclusion as follows:

1281 1. If the agency's written regulations or procedures require the hearing officer to render a recommendation
1282 or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion
1283 on or before the expiration of the specified period; and

1284 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from
1285 the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

1286 If the hearing officer does not render a decision within the time required by this subsection, then the agency
1287 or the named party to the case decision may provide written notice to the hearing officer and the Executive

1288 Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the
 1289 hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer
 1290 from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary
 1291 action, unless good cause is shown for the delay.

1292 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written
 1293 notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as
 1294 required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions
 1295 to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration,
 1296 followed by judicial review in accordance with this chapter.

1297 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the
 1298 members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia*
 1299 *Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation
 1300 Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§
 1301 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
 1302 Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board
 1303 convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the
 1304 Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia
 1305 Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum
 1306 qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the
 1307 Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in
 1308 periodic training courses.

1309 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers
 1310 conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources, the Virginia
 1311 Housing Development Authority, the Milk Commission, and the Virginia Resources Authority pursuant to their
 1312 basic laws.

1313 **§ 3.2-1010. Enforcement of chapter; summons.**

1314 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain
 1315 members of the Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*,
 1316 may enforce the provisions of this chapter and the regulations adopted hereunder as well as those who are so
 1317 designated by the Commissioner. Those designated by the Commissioner may issue a summons to any person
 1318 who violates any provision of this chapter to appear at a time and place to be specified in such summons.

1319 **§ 3.2-3906. Board to adopt regulations.**

1320 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), including:

- 1321 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
- 1322 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1323 3. Requiring reporting and record keeping related to licensing and registration;
- 1324 4. Establishing training, testing and standards for certification of commercial applicators, registered
 1325 technicians, and private applicators;
- 1326 5. Revoking, suspending or denying licenses (business), registration (products), and certification or
 1327 certificate (applicators or technicians);
- 1328 6. Requiring licensees and certificate holders to inform the public when using pesticides in and around
 1329 structures;
- 1330 7. Establishing a fee structure for licensure, registration and certification to defray the costs of implementing
 1331 this chapter;
- 1332 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such
 1333 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial, institutional,
 1334 structural or health-related pest control;
- 1335 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or residuals
 1336 that: (i) undesirably persists in the environment or increases due to biological amplification or unreasonable

1337 adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man, animal, bird or plant
 1338 may be contrary to the public interest; ~~and~~

1339 10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in compliance*
 1340 *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*

1341 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1342 **§ 3.2-4112. Definitions.**

1343 As used in this chapter, unless the context requires a different meaning:

1344 "Cannabis sativa product" means a product made from any part of the plant *Cannabis sativa*, including
 1345 seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing
 1346 or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

1347 "Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell such
 1348 industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law or (ii)
 1349 sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law.

1350 "Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial
 1351 hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for
 1352 personal use or retail sale in Virginia.

1353 "Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he
 1354 deals.

1355 "Grow" means to plant, cultivate, or harvest a plant or crop.

1356 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

1357 "Hemp product" means ~~any finished a product that is otherwise lawful and~~ that contains industrial hemp,
 1358 ~~including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an~~
 1359 ~~industrial hemp extract, or food or food additives for human consumption and has completed all stages of~~
 1360 ~~processing needed for the product.~~

1361 "*Hemp product intended for smoking*" means any hemp product intended to be consumed by inhalation.

1362 "*Hemp testing laboratory*" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1 to test
 1363 *hemp products or a marijuana testing facility as defined in § 4.1-600.*

1364 "Industrial hemp" means any part of the plant *Cannabis sativa*, including seeds thereof ~~and any derivative,~~
 1365 ~~extract, cannabinoid, isomer, acid, salt, or salt of an isomer,~~ whether growing or not, with a concentration of
 1366 tetrahydrocannabinol that is no greater than that allowed by federal law. "*Industrial hemp*" includes an
 1367 *industrial hemp extract that has not completed all stages of processing needed to convert the extract into a*
 1368 *hemp product.*

1369 "Process" means to convert industrial hemp into a hemp product.

1370 "Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

1371 "Process site" means the location at which a processor processes or intends to process industrial hemp.

1372 "Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

1373 **§ 3.2-4113. Production of industrial hemp lawful.**

1374 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
 1375 to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his
 1376 agent, or processor or his agent shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-*
 1377 ~~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
 1378 processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding
 1379 brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the
 1380 Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or
 1381 exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception,
 1382 excuse, proviso, or exemption shall be on the defendant.

1383 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

1384 C. No person shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-*
 1385 ~~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

1386 the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or
1387 process site.

1388 **§ 3.2-4114. Regulations.**

1389 A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal
1390 in, or process industrial hemp or implement the provisions of this chapter.

1391 B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule
1392 regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in industrial
1393 hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department
1394 regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the
1395 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

1396 C. *The Board shall adopt regulations (i) establishing acceptable testing practices for hemp products*
1397 *intended for smoking, (ii) identifying the contaminants for which hemp products intended for smoking shall be*
1398 *tested, and (iii) establishing the maximum level of allowable contamination for each contaminant.*

1399 D. *The Board shall adopt regulations establishing (i) labeling and packaging requirements for a hemp*
1400 *product intended for smoking and a hemp product that is an industrial hemp extract intended for human*
1401 *consumption and (ii) advertising requirements for a hemp product intended for smoking and a hemp product*
1402 *that is an industrial hemp extract intended for human consumption.*

1403 E. *With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000*
1404 *et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations adopted*
1405 *pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the Board shall*
1406 *publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the*
1407 *Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the*
1408 *proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number*
1409 *of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60*
1410 *days in advance of the last date prescribed in such notice for submittals of public comment. The legislative*
1411 *review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process*
1412 *for regulations adopted pursuant to subsection C or D. The Board shall consider and keep on file all public*
1413 *comments received for any regulation adopted pursuant to subsection C or D.*

1414 **§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.**

1415 A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for any application for registration
1416 *or license* or renewal of registration *or license* allowed under this chapter. The Commissioner may charge a
1417 nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the
1418 Commissioner shall be deposited in the state treasury.

1419 B. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp
1420 production fields, dealerships, ~~and~~ process sites, *and hemp testing laboratories.*

1421 C. The Commissioner shall forward a copy or appropriate electronic record of each registration *or license*
1422 issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where
1423 industrial hemp will be grown, dealt, or processed *or where a hemp testing laboratory will be located.*

1424 D. The Commissioner shall be responsible for monitoring the industrial hemp grown, dealt, or processed
1425 by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random testing of the
1426 industrial hemp, at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits
1427 and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and
1428 sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or
1429 process site during normal business hours without advance notice if he has reason to believe a violation of this
1430 chapter is occurring or has occurred.

1431 E. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer,
1432 or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the
1433 grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to
1434 have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis
1435 sativa product that the processor produces.

1436 F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in
1437 a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act
1438 of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp
1439 in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1440 1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer,
1441 or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the
1442 grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to
1443 have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

1444 2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6
1445 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that
1446 the Cannabis sativa be sampled and tested again before he requires its destruction.

1447 G. The Commissioner shall advise the Attorney General of the United States and the Superintendent of
1448 State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental
1449 state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa
1450 with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor
1451 produces a Cannabis sativa product.

1452 H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration
1453 or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp
1454 industry.

1455 I. The Commissioner may establish a corrective action plan to address a negligent violation of any provision
1456 of this chapter.

1457 **§ 3.2-4116. Registration conditions.**

1458 A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, dealing in,
1459 or processing any industrial hemp in the Commonwealth.

1460 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1461 1. Maintain records that reflect compliance with this chapter and with all other state or federal laws
1462 regulating the growing, dealing in, or processing of industrial hemp;

1463 2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

1464 3. Allow his production field, dealership, or process site to be inspected by and at the discretion of the
1465 Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the
1466 locality in which the production field or dealership or process site exists;

1467 4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's
1468 industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established
1469 pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

1470 5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner
1471 approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in,
1472 or the processor processes that has been tested and, following any re-sampling and retesting as authorized
1473 pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is
1474 greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

1475 C. *A processor that processes a hemp product intended for smoking or a hemp product that is an industrial*
1476 *hemp extract intended for human consumption shall make available the results of the testing conducted in*
1477 *accordance with § 3.2-4122 to each retail establishment that offers for sale the processor's hemp products.*

1478 **§ 3.2-4117.1. Hemp testing laboratory license; exemption.**

1479 A. *The Commissioner shall establish a licensure program to allow a laboratory to test industrial hemp or*
1480 *hemp products in the Commonwealth.*

1481 B. *Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall apply to*
1482 *the Commissioner for a license on a form provided by the Commissioner. At a minimum, the application shall*
1483 *include:*

1484 1. *The name and address of the laboratory.*

1485 2. *The address of each location at which the laboratory intends to test industrial hemp or hemp products.*

1486 3. *The name of the person who will oversee and be responsible for the testing and documentation that such*
1487 *person has earned from an institution of higher education accredited by a national or regional certifying*
1488 *authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-*
1489 *degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of*
1490 *four years of post-degree laboratory experience.*

1491 4. *A signed statement that the applicant has no direct or indirect financial interest in a grower, processor,*
1492 *or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of*
1493 *industrial hemp or a hemp product. Additionally, no person with a direct or indirect financial interest in the*
1494 *laboratory shall have a direct or indirect financial interest in a grower, processor, or dealer or in any other*
1495 *entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp*
1496 *product.*

1497 5. *Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the*
1498 *International Organization for Standardization by a third-party accrediting body.*

1499 6. *Any other information required by the Commissioner.*

1500 7. *The payment of a nonrefundable application fee.*

1501 C. *Each license issued pursuant to this section shall be valid for a period of one year from the date of*
1502 *issuance and may be renewed in successive years. Each annual renewal shall require the payment of a license*
1503 *renewal fee.*

1504 D. *Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be required*
1505 *to apply to the Commissioner for a license to test industrial hemp or hemp products in the Commonwealth.*

1506 **§ 3.2-4117.2. Hemp testing laboratory license; conditions.**

1507 A. *A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing any*
1508 *industrial hemp or hemp product in the Commonwealth. However, a marijuana testing facility, as defined in §*
1509 *4.1-600, shall not be required to obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing*
1510 *industrial hemp or hemp products in the Commonwealth.*

1511 B. *A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:*

1512 1. *Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for*
1513 *Standardization by a third-party accrediting body.*

1514 2. *Employ a person who will oversee and be responsible for testing hemp products and who has earned*
1515 *from an institution of higher education accredited by a national or regional certifying authority at least (i) a*
1516 *master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory*
1517 *experience of (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-*
1518 *degree laboratory experience.*

1519 3. *Allow the Commissioner or his designee to inspect each location at which the laboratory tests hemp*
1520 *products.*

1521 C. *If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection C of §*
1522 *3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 indicate that the tested hemp product exceeds*
1523 *the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant for which*
1524 *testing is required, a hemp testing laboratory shall, within seven days of completing the test, notify the*
1525 *Commissioner of the test results.*

1526 D. *For each day any violation of this section occurs, the Commissioner may assess a penalty not to exceed*
1527 *(i) \$1,000 for a first violation; (ii) \$5,000 for a second violation; and (iii) a six-month license suspension for a*
1528 *third or subsequent violation within a five-year period. All penalties collected by the Commissioner pursuant*
1529 *to this subsection shall be deposited in the state treasury.*

1530 **§ 3.2-4122. Hemp products.**

1531 A. *Any hemp product intended for smoking that is distributed, offered for sale, or sold in the Commonwealth*
1532 *shall be:*

1533 1. *Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.*

1534 2. *Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

1535 3. *Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

1536 *B. Any hemp product that is or includes an industrial hemp extract intended for human consumption that*
 1537 *is distributed, offered for sale, or sold in the Commonwealth shall be:*

1538 *1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

1539 *2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

1540 *C. A processor shall destroy the batch of hemp product intended for smoking whose testing sample exceeds*
 1541 *the maximum level of allowable contamination for each contaminant established in regulations adopted*
 1542 *pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product into compliance*
 1543 *with such regulation. A processor shall destroy the batch of hemp product that is or includes an industrial hemp*
 1544 *extract intended for human consumption whose testing sample exceeds the maximum level of allowable*
 1545 *contamination for each contaminant established in regulations adopted pursuant to § 3.2-5145.5, unless*
 1546 *remedial measures can bring the hemp product into compliance with such regulation.*

1547 *D. For any violation of subsection A or B by a processor or by a retail establishment, the Commissioner*
 1548 *may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500*
 1549 *for a third or subsequent violation. For any violation of subsection C by a processor, the Commissioner may*
 1550 *assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200 for a second violation, and (c) \$500 for a*
 1551 *third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be*
 1552 *deposited in the state treasury.*

1553 *E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking that is produced*
 1554 *prior to the initial effective date of the regulations adopted pursuant to subsection C or D of § 3.2-4114 may be*
 1555 *distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a hemp product*
 1556 *intended for smoking pursuant to this subsection shall provide to the Commissioner, upon request,*
 1557 *documentation of the date on which the product was processed.*

1558 *F. Notwithstanding the provisions of subsection B, any hemp product that is an industrial hemp extract*
 1559 *intended for human consumption and that is produced prior to the initial effective date of the regulations*
 1560 *adopted pursuant to subsection D of § 3.2-4114 may be distributed, offered for sale, or sold. Any person who*
 1561 *distributes, offers for sale, or sells a hemp product that is an industrial hemp extract intended for human*
 1562 *consumption pursuant to this subsection shall provide to the Commissioner, upon request, documentation of*
 1563 *the date on which the product was processed.*

1564 *Article 6.*

1565 *Edible Marijuana Products.*

1566 **§ 3.2-5145.6. Definitions.**

1567 *As used in this article, unless the context requires a different meaning:*

1568 *"Edible marijuana product" means the same as that term is defined in § 4.1-600.*

1569 *"Food" means any article that is intended for human consumption and introduction into commerce, whether*
 1570 *the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof.*
 1571 *"Food" does not mean drug as defined in § 54.1-3401.*

1572 **§ 3.2-5145.7. Edible marijuana products; approved food; adulterated food.**

1573 *A. An edible marijuana product is a food and is subject to the requirements of this chapter and regulations*
 1574 *adopted pursuant to this chapter.*

1575 *B. An edible marijuana product that does not comply with the provisions of § 4.1-1403 or health and safety*
 1576 *regulations adopted pursuant thereto shall be deemed to be adulterated.*

1577 **§ 3.2-5145.8. Manufacturer of edible marijuana products.**

1578 *A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:*

1579 *1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and*

1580 *2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible marijuana*
 1581 *products in the location in which such manufacturing occurs.*

1582 **§ 3.2-5145.9. Regulations.**

1583 *A. The Board is authorized to adopt regulations for the efficient enforcement of this article.*

1584 *B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000*
 1585 *et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any*

1586 *regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall*
 1587 *publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the*
 1588 *Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the*
 1589 *proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number*
 1590 *of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60*
 1591 *days in advance of the last date prescribed in such notice for submittals of public comment. The legislative*
 1592 *review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process*
 1593 *for regulations adopted pursuant to this section. The Board shall consider and keep on file all public comments*
 1594 *received for any regulation adopted pursuant to this section.*

1595 TITLE 4.1.

1596 ALCOHOLIC BEVERAGE AND CANNABIS CONTROL ~~ACT~~.

1597 SUBTITLE I.

1598 ALCOHOLIC BEVERAGE CONTROL ACT.

1599 **§ 4.1-100. (Effective until July 1, 2021) Definitions.**

1600 As used in this ~~title~~ subtitle unless the context requires a different meaning:

1601 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented
 1602 liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but
 1603 shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by
 1604 the government of the United States.

1605 "*Alcoholic Beverage Control Act*" means Subtitle I (§ 4.1-100 et seq.).

1606 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages
 1607 with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

1608 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
 1609 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and
 1610 every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable
 1611 of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall
 1612 be considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
 1613 according to the order in which they are set forth in this definition; except that beer may be manufactured to
 1614 include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49
 1615 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other
 1616 nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent
 1617 by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as
 1618 no more than one and one-half percent of the volume of the finished product consists of alcohol derived from
 1619 added flavors and other nonbeverage ingredients containing alcohol.

1620 "Art instruction studio" means any commercial establishment that provides to its customers all required
 1621 supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional
 1622 session.

1623 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works
 1624 of art are sold or displayed.

1625 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ subtitle.

1626 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1627 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii)
 1628 offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at
 1629 least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is
 1630 provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and breakfast establishment"
 1631 includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other
 1632 than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight
 1633 lodging is provided.

1634 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley,
1635 malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of
1636 alcohol by volume.

1637 "Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only,
1638 custom made apparel and that offers a membership program to customers. Such establishment shall be a
1639 permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and
1640 delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of
1641 alcoholic beverages.

1642 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1643 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

1644 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for
1645 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C.
1646 § 59ii.

1647 "Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of
1648 an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not
1649 for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so
1650 operated. A corporation or association shall not lose its status as a club because of the conduct of charitable
1651 gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which
1652 nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or
1653 consumed in the room where such charitable gaming is being conducted while such gaming is being conducted
1654 and that no alcoholic beverages are made available upon the premises to any person who is neither a member
1655 nor a bona fide guest of a member.

1656 Any such corporation or association which has been declared exempt from federal and state income taxes
1657 as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation
1658 or association.

1659 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10
1660 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and
1661 a combination of dining, entertainment, office, residential, or hotel establishments located in a physically
1662 integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association
1663 that is responsible for the management, maintenance, and operation of the common areas thereof.

1664 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic
1665 beverages.

1666 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes,
1667 fruits, and other agricultural products from a person holding a farm winery license and crushes, processes,
1668 ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery
1669 licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract winemaking facility for a farm
1670 winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits,
1671 or other agricultural products used in the production of the wine. The contract winemaking facility shall have
1672 no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with
1673 the contract. The contract winemaking facility may charge the farm winery for its services.

1674 "Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent
1675 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended
1676 for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

1677 "Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years
1678 of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms,
1679 Internet access, printers, copiers, telephones, and fax machines.

1680 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building
1681 that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at
1682 least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the

1683 public, for compensation, at least one meal per day, lodging, and recreational and educational activities related
1684 to farming, livestock, and other rural activities.

1685 "Day spa" means any commercial establishment that offers to the public both massage therapy, performed
1686 by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by
1687 persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

1688 "Designated area" means a room or area approved by the Board for on-premises licensees.

1689 "Dining area" means a public room or area in which meals are regularly served.

1690 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
1691 manufactured, sold, or used.

1692 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
1693 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and
1694 bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21
1695 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing
1696 vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural
1697 growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where
1698 the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an
1699 accredited public or private institution of higher education, provided that (a) no wine manufactured by the
1700 institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and
1701 educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm
1702 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is
1703 operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
1704 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals
1705 for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
1706 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1707 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned
1708 agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by
1709 a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land
1710 zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in
1711 the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

1712 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items
1713 relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which
1714 is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and
1715 offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located
1716 (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii)
1717 within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation
1718 of the shop in determining whether it shall be considered a gift shop.

1719 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully
1720 be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities
1721 for manufacturing, fermenting and bottling such wine or beer.

1722 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities,
1723 where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various
1724 types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

1725 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1726 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the
1727 Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion
1728 pictures to the public.

1729 "Hotel" means any duly licensed establishment, provided with special space and accommodation, where,
1730 in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more
1731 bedrooms. It shall also mean the person who operates such hotel.

1732 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant
1733 to this ~~title~~ subtitle.

1734 "Internet beer retailer" means a person who owns or operates an establishment with adequate inventory,
1735 shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and
1736 shipped directly to consumers and which establishment is not a retail store open to the public.

1737 "Internet wine retailer" means a person who owns or operates an establishment with adequate inventory,
1738 shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and
1739 shipped directly to consumers and which establishment is not a retail store open to the public.

1740 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably
1741 affect his manner, disposition, speech, muscular movement, general appearance or behavior.

1742 "Licensed" means the holding of a valid license granted by the Authority.

1743 "Licensee" means any person to whom a license has been granted by the Authority.

1744 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content
1745 of 25 percent by volume.

1746 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by
1747 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with
1748 nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts,
1749 sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices.
1750 Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low
1751 alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the
1752 Commonwealth.

1753 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises
1754 consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at
1755 the establishment.

1756 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-
1757 service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in
1758 full course meals with a single substantial entree.

1759 "Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke
1760 clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual
1761 dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership
1762 fee shall be not less than \$25 for any term of membership.

1763 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
1764 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person
1765 who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of
1766 a bona fide member, whether alive or deceased, of a national or international organization to which an individual
1767 lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member
1768 whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full
1769 amount of such contribution being paid in advance in a lump sum.

1770 "Member of a coworking establishment" means a person who maintains a membership in the coworking
1771 establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in
1772 the manner established by the rules of the coworking establishment. "Member of a coworking establishment"
1773 does not include an employee or any person with an ownership interest in the coworking establishment.

1774 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

1775 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and
1776 which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not
1777 commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain
1778 alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

1779 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which
1780 is the county seat of Smyth County.

1781 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
1782 designated in the application for a license as the place at which the manufacture, bottling, distribution, use or
1783 sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement
1784 actually and exclusively used as a private residence.

1785 "Principal stockholder" means any person who individually or in concert with his spouse and immediate
1786 family members beneficially owns or controls, directly or indirectly, five percent or more of the equity
1787 ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate
1788 family members has the power to vote or cause the vote of five percent or more of any such equity ownership.
1789 "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934,
1790 as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation
1791 holding, directly or indirectly, a license from the Authority.

1792 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,
1793 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,
1794 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

1795 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private
1796 meetings or private parties limited in attendance to members and guests of a particular group, association or
1797 organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while
1798 such restaurant is closed to the public and in use for private meetings or parties limited in attendance to
1799 employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices,
1800 office buildings or industrial facilities while closed to the public and in use for private meetings or parties
1801 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building
1802 or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which
1803 alcoholic beverages are not sold.

1804 "Residence" means any building or part of a building or structure where a person resides, but does not
1805 include any part of a building which is not actually and exclusively used as a private residence, nor any part of
1806 a hotel or club other than a private guest room thereof.

1807 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
1808 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
1809 voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities
1810 both to its members and the general public; or (iii) operated by a corporation that operates as a management
1811 company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or
1812 dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the
1813 general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling
1814 units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms
1815 or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and
1816 dwelling units shall be located within the same locality. The Authority may consider the purpose,
1817 characteristics, and operation of the applicant establishment in determining whether it shall be considered as a
1818 resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be
1819 observed by such licensee.

1820 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any
1821 establishment provided with special space and accommodation, where, in consideration of payment, meals or
1822 other foods prepared on the premises are regularly sold.

1823 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,
1824 an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has
1825 adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at
1826 tables in dining areas on the premises, and includes establishments specializing in full course meals with a
1827 single substantial entree.

1828 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
1829 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
1830 beverages.

1831 "Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit,
1832 fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

1833 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board
1834 has designated as a law-enforcement officer pursuant to § 4.1-105.

1835 "Special event" means an event sponsored by a duly organized nonprofit corporation or association and
1836 conducted for an athletic, charitable, civic, educational, political, or religious purpose.

1837 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and
1838 other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or
1839 more of the last four named ingredients, but shall not include any such liquors completely denatured in
1840 accordance with formulas approved by the United States government.

1841 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar
1842 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
1843 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of
1844 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal
1845 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content
1846 of 21 percent by volume.

1847 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not
1848 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine
1849 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit
1850 juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products
1851 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall
1852 be treated as wine for all purposes except for taxation under § 4.1-236.

1853 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-
1854 premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by
1855 § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

1856 **§ 4.1-100. (Effective July 1, 2021) Definitions.**

1857 As used in this ~~title~~ *subtitle* unless the context requires a different meaning:

1858 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented
1859 liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but
1860 shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by
1861 the government of the United States.

1862 "*Alcoholic Beverage Control Act*" means *Subtitle I (§ 4.1-100 et seq.)*.

1863 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages
1864 with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

1865 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
1866 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and
1867 every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable
1868 of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall
1869 be considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
1870 according to the order in which they are set forth in this definition; except that beer may be manufactured to
1871 include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49
1872 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other
1873 nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent
1874 by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as
1875 no more than one and one-half percent of the volume of the finished product consists of alcohol derived from
1876 added flavors and other nonbeverage ingredients containing alcohol.

1877 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works
1878 of art are sold or displayed.

1879 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ *subtitle*.

1880 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1881 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii)
1882 offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at
1883 least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is
1884 provided. For purposes of the licensing requirements of this ~~title~~ *subtitle*, "bed and breakfast establishment"
1885 includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other
1886 than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight
1887 lodging is provided.

1888 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley,
1889 malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of
1890 alcohol by volume.

1891 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1892 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

1893 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-
1894 2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth
1895 on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in
1896 length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for
1897 cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an
1898 attendant who has satisfied all training requirements set forth in this ~~title~~ *subtitle* or Board regulation.

1899 "Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of
1900 an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not
1901 for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so
1902 operated. A corporation or association shall not lose its status as a club because of the conduct of charitable
1903 gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which
1904 nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or
1905 consumed in the room where such charitable gaming is being conducted while such gaming is being conducted
1906 and that no alcoholic beverages are made available upon the premises to any person who is neither a member
1907 nor a bona fide guest of a member.

1908 Any such corporation or association which has been declared exempt from federal and state income taxes
1909 as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation
1910 or association.

1911 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10
1912 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and
1913 a combination of dining, entertainment, office, residential, or hotel establishments located in a physically
1914 integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association
1915 that is responsible for the management, maintenance, and operation of the common areas thereof.

1916 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic
1917 beverages.

1918 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes,
1919 fruits, and other agricultural products from a person holding a farm winery license and crushes, processes,
1920 ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery
1921 licensee. For all purposes of this ~~title~~ *subtitle*, wine produced by a contract winemaking facility for a farm
1922 winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits,
1923 or other agricultural products used in the production of the wine. The contract winemaking facility shall have
1924 no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with
1925 the contract. The contract winemaking facility may charge the farm winery for its services.

1926 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure
1927 where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human
1928 consumption consisting of a variety of such items of the types normally sold in grocery stores.

1929 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building
1930 that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at

1931 least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the
1932 public, for compensation, at least one meal per day, lodging, and recreational and educational activities related
1933 to farming, livestock, and other rural activities.

1934 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little
1935 preparation, such as cheeses, salads, cooked meats, and related condiments.

1936 "Designated area" means a room or area approved by the Board for on-premises licensees.

1937 "Dining area" means a public room or area in which meals are regularly served.

1938 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a
1939 prescription and other medicines and items for home and general use.

1940 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
1941 manufactured, sold, or used.

1942 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
1943 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and
1944 bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21
1945 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing
1946 vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural
1947 growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where
1948 the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an
1949 accredited public or private institution of higher education, provided that (a) no wine manufactured by the
1950 institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and
1951 educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm
1952 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is
1953 operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
1954 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals
1955 for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
1956 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1957 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned
1958 agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by
1959 a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land
1960 zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in
1961 the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

1962 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items
1963 relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which
1964 is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and
1965 offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located
1966 (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii)
1967 within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation
1968 of the shop in determining whether it shall be considered a gift shop.

1969 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully
1970 be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities
1971 for manufacturing, fermenting and bottling such wine or beer.

1972 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina,
1973 (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the
1974 premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public
1975 about local oysters and other seafood products.

1976 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities,
1977 where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various
1978 types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

1979 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

- 1980** "Grocery store" means an establishment that sells food and other items intended for human consumption,
1981 including a variety of ingredients commonly used in the preparation of meals.
- 1982** "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the
1983 Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion
1984 pictures to the public.
- 1985** "Hotel" means any duly licensed establishment, provided with special space and accommodation, where,
1986 in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more
1987 bedrooms. It shall also mean the person who operates such hotel.
- 1988** "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant
1989 to this ~~title~~ subtitle.
- 1990** "Internet wine and beer retailer" means a person who owns or operates an establishment with adequate
1991 inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are
1992 taken and shipped directly to consumers and which establishment is not a retail store open to the public.
- 1993** "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably
1994 affect his manner, disposition, speech, muscular movement, general appearance, or behavior.
- 1995** "Licensed" means the holding of a valid license granted by the Authority.
- 1996** "Licensee" means any person to whom a license has been granted by the Authority.
- 1997** "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content
1998 of 25 percent by volume.
- 1999** "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by
2000 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with
2001 nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts,
2002 sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices.
2003 Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low
2004 alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the
2005 Commonwealth.
- 2006** "Marina store" means an establishment that is located on the same premises as a marina, is operated by the
2007 owner of such marina, and sells food and nautical and fishing supplies.
- 2008** "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-
2009 service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in
2010 full course meals with a single substantial entree.
- 2011** "Member of a club" means (i) a person who maintains his membership in the club by the payment of
2012 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person
2013 who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of
2014 a bona fide member, whether alive or deceased, of a national or international organization to which an individual
2015 lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member
2016 whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full
2017 amount of such contribution being paid in advance in a lump sum.
- 2018** "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.
- 2019** "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and
2020 which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not
2021 commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain
2022 alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.
- 2023** "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which
2024 is the county seat of Smyth County.
- 2025** "Place or premises" means the real estate, together with any buildings or other improvements thereon,
2026 designated in the application for a license as the place at which the manufacture, bottling, distribution, use or
2027 sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement
2028 actually and exclusively used as a private residence.

2029 "Principal stockholder" means any person who individually or in concert with his spouse and immediate
2030 family members beneficially owns or controls, directly or indirectly, five percent or more of the equity
2031 ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate
2032 family members has the power to vote or cause the vote of five percent or more of any such equity ownership.
2033 "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934,
2034 as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation
2035 holding, directly or indirectly, a license from the Authority.

2036 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,
2037 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,
2038 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

2039 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private
2040 meetings or private parties limited in attendance to members and guests of a particular group, association or
2041 organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while
2042 such restaurant is closed to the public and in use for private meetings or parties limited in attendance to
2043 employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices,
2044 office buildings or industrial facilities while closed to the public and in use for private meetings or parties
2045 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building
2046 or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which
2047 alcoholic beverages are not sold.

2048 "Residence" means any building or part of a building or structure where a person resides, but does not
2049 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a
2050 hotel or club other than a private guest room thereof.

2051 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
2052 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
2053 voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities
2054 both to its members and to the general public; or (iii) operated by a corporation that operates as a management
2055 company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or
2056 dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the
2057 general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling
2058 units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms
2059 or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and
2060 dwelling units shall be located within the same locality. The Authority may consider the purpose,
2061 characteristics, and operation of the applicant establishment in determining whether it shall be considered as a
2062 resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be
2063 observed by such licensee.

2064 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any
2065 establishment provided with special space and accommodation, where, in consideration of payment, meals or
2066 other foods prepared on the premises are regularly sold.

2067 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,
2068 an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has
2069 adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at
2070 tables in dining areas on the premises, and includes establishments specializing in full course meals with a
2071 single substantial entree.

2072 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
2073 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
2074 beverages.

2075 "Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit,
2076 fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

2077 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board
2078 has designated as a law-enforcement officer pursuant to § 4.1-105.

2079 "Special event" means an event sponsored by a duly organized nonprofit corporation or association and
2080 conducted for an athletic, charitable, civic, educational, political, or religious purpose.

2081 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and
2082 other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or
2083 more of the last four named ingredients, but shall not include any such liquors completely denatured in
2084 accordance with formulas approved by the United States government.

2085 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar
2086 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
2087 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of
2088 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal
2089 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content
2090 of 21 percent by volume.

2091 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not
2092 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine
2093 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit
2094 juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products
2095 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall
2096 be treated as wine for all purposes except for taxation under § 4.1-236.

2097 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-
2098 premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by
2099 § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

2100 **§ 4.1-101.01. Board of Directors; membership; terms; compensation.**

2101 A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large
2102 appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house
2103 of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at
2104 least three years next preceding his appointment, and his continued residency shall be a condition of his tenure
2105 in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess
2106 a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or
2107 control of a business or legal affairs. Appointees shall be subject to a background check in accordance with §
2108 4.1-101.03.

2109 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members
2110 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired
2111 term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms;
2112 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the
2113 Board may be removed from office by the Governor for cause, including the improper use of its police powers,
2114 malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure
2115 to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly,
2116 or refusal to carry out a lawful directive of the Governor.

2117 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership
2118 of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The
2119 Board may also form committees and advisory councils, which may include representatives who are not
2120 members of the Board, to undertake more extensive study and discussion of the issues before the Board. A
2121 majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy
2122 in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the
2123 Authority.

2124 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be
2125 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written
2126 request of a majority of the Board members.

2127 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses
2128 for the performance of their official duties as set forth in the general appropriation act for members of the House

2129 of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive
2130 annually such salary, compensation, and reimbursement of expenses for the performance of his official duties
2131 as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly
2132 is not in session.

2133 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall
2134 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the
2135 Authority.

2136 **§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of**
2137 **confidential assistant to the Chief Executive Officer.**

2138 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the
2139 affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive
2140 Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a
2141 related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in
2142 the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall
2143 receive such compensation as determined by the Board and approved by the Governor, including any
2144 performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject
2145 to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the
2146 powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance
2147 measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be
2148 removed from office by the Governor for cause, including the improper use of the Authority's police powers,
2149 malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure
2150 to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out
2151 the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to
2152 carry out a lawful directive of the Governor.

2153 B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall
2154 not be engaged in any other profession or occupation.

2155 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance
2156 with this ~~title~~ *subtitle*.

2157 D. The Chief Executive Officer shall:

2158 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority
2159 and preserve at the Authority's general office all books, documents, and papers of the Authority;

2160 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be
2161 conferred or imposed upon him by law;

2162 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be
2163 necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's
2164 approval; and

2165 4. Make recommendations to the Board for legislative and regulatory changes.

2166 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief
2167 Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level
2168 or cause such a contribution to be made on his behalf.

2169 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint
2170 one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

2171 **§ 4.1-101.07. Forms of accounts and records; audit; annual report.**

2172 A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever
2173 source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts
2174 or his legally authorized representatives shall annually examine the accounts and books of the Authority. The
2175 Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of
2176 each year. Such report shall contain the audited annual financial statements of the Authority for the year ending
2177 the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast,
2178 assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions

2179 of services and tangible or intangible property, any material changes to the policies and procedures issued by
2180 the Authority related to procurement or personnel, and any proposed marketing activities.

2181 B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~ *subtitle*,
2182 the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These
2183 systems and related procedures shall be subject to review and approval by the State Comptroller. Upon
2184 agreement with the State Comptroller, the Authority may report summary level detail on both payroll and
2185 nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management
2186 system or its successor system. Such reports shall be made in accordance with policies, procedures, and
2187 directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all
2188 disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel
2189 reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

2190 **§ 4.1-101.09. Exemptions from taxes or assessments.**

2191 The exercise of the powers granted by this ~~title~~ *subtitle* shall be in all respects for the benefit of the people
2192 of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their
2193 living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority
2194 constitutes the performance of essential governmental functions, the Authority shall not be required to pay any
2195 taxes or assessments upon any property acquired or used by the Authority under the provisions of this ~~title~~
2196 *subtitle* or upon the income therefrom, including sales and use taxes on the tangible personal property used in
2197 the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons
2198 conducting on the premises of any property of the Authority businesses for which local or state taxes would
2199 otherwise be required.

2200 **§ 4.1-101.10. Exemption of Authority from personnel and procurement procedures; information**
2201 **systems; etc.**

2202 A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement
2203 Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this ~~title~~
2204 *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
2205 seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this ~~title~~
2206 *subtitle*.

2207 B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction
2208 and the disposition of surplus materials shall be exempt from:

2209 1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from
2210 the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2211 2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117;
2212 and

2213 3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services,
2214 insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the
2215 duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of
2216 General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the
2217 oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for
2218 the construction of the Authority's capital projects and construction-related professional services under § 2.2-
2219 1132.

2220 C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services,
2221 including information technology goods and services; (ii) shall use directly or by integration or interface the
2222 Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the
2223 Authority and the Department of General Services; and (iii) shall post on the Department of General Services'
2224 central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices,
2225 and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on
2226 one website.

2227 **§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
2228 **communications as alternative to regular mail; limitation.**

2229 A. Whenever in this ~~title~~ *subtitle* the Board is required to send any mail or notice by certified mail and such
2230 mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that
2231 is sent by the Board may be sent by regular mail.

2232 B. Except as provided in subsection C, whenever in this ~~title~~ *subtitle* the Board is required or permitted to
2233 send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§
2234 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official
2235 communication by email, text message, or other electronic means to the email address, telephone number, or
2236 other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof
2237 of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by
2238 the Board confirming the electronic delivery.

2239 C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or
2240 revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by
2241 the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or
2242 revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other
2243 electronic means.

2244 **§ 4.1-103. (Effective until July 1, 2021) General powers of Board.**

2245 The Board shall have the power to:

2246 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2247 2. Adopt, use, and alter at will a common seal;

2248 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of
2249 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of
2250 providing for the payment of the expenses of the Authority;

2251 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties,
2252 the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements
2253 with any person or federal agency;

2254 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
2255 investment bankers, superintendents, managers, and such other employees and special agents as may be
2256 necessary and fix their compensation to be payable from funds made available to the Authority. Legal services
2257 for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of
2258 Title 2.2;

2259 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person
2260 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
2261 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
2262 from any other source aid or contributions of either money, property, or other things of value, to be held, used,
2263 and applied only for the purposes for which such grants and contributions may be made. All federal moneys
2264 accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as
2265 are prescribed by the United States and as are consistent with state law, and all state moneys accepted under
2266 this section shall be expended by the Authority upon such terms and conditions as are prescribed by the
2267 Commonwealth;

2268 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall
2269 be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.
2270 The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee
2271 of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any
2272 delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the
2273 exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive
2274 summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to
2275 ensure faithful performance of the duties and tasks;

2276 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
2277 purposes or necessary or convenient to exercise its powers;

- 2278 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
2279 construction, based upon competitive principles;
- 2280 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
2281 2.2;
- 2282 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and
2283 to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
- 2284 12. Buy and sell any mixers;
- 2285 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
2286 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
2287 (clothing);
- 2288 14. Control the possession, sale, transportation and delivery of alcoholic beverages;
- 2289 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
2290 operated and the location of such stores;
- 2291 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
2292 beverages to and from such warehouses;
- 2293 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
2294 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
2295 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
2296 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
2297 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
2298 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and
2299 conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed,
2300 tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and
2301 conditions as may be determined by the Board; and occupy and improve any land or building required for the
2302 purposes of this ~~title~~ subtitle;
- 2303 18. Purchase or otherwise acquire title to any land or building required for the purposes of this ~~title~~ subtitle
2304 and sell and convey the same by proper deed, with the consent of the Governor;
- 2305 19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered
2306 necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending and
2307 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
2308 beverages;
- 2309 20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
2310 kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed
2311 thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
2312 alcohol;
- 2313 21. Appoint every agent and employee required for its operations; require any or all of them to give bonds
2314 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts
2315 and professionals;
- 2316 22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
2317 of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer
2318 oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold
2319 and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases,
2320 subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent
2321 agreements and may request and accept from any applicant or licensee a consent agreement in lieu of
2322 proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement
2323 shall include findings of fact and may include an admission or a finding of a violation. A consent agreement
2324 shall not be considered a case decision of the Board and shall not be subject to judicial review under the
2325 provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future
2326 disciplinary proceedings;

- 2327 23. Make a reasonable charge for preparing and furnishing statistical information and compilations to
2328 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2329 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest
2330 in obtaining the information requested if such information is not to be used for commercial or trade purposes;
- 2331 24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §
2332 4.1-111;
- 2333 25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of
2334 alcoholic beverages;
- 2335 26. Assess and collect civil penalties and civil charges for violations of this ~~title~~ *subtitle* and Board
2336 regulations;
- 2337 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;
- 2338 28. Establish minimum food sale requirements for all retail licensees;
- 2339 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive
2340 Officer as the Board deems appropriate;
- 2341 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
2342 activities undertaken to enforce the provisions of this ~~title~~ *subtitle*; and
- 2343 31. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ *subtitle*.
- 2344 **§ 4.1-103. (Effective July 1, 2021) General powers of Board.**
- 2345 The Board shall have the power to:
- 2346 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
- 2347 2. Adopt, use, and alter at will a common seal;
- 2348 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of
2349 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of
2350 providing for the payment of the expenses of the Authority;
- 2351 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties,
2352 the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements
2353 with any person or federal agency;
- 2354 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
2355 investment bankers, superintendents, managers, and such other employees and special agents as may be
2356 necessary and fix their compensation to be payable from funds made available to the Authority. Legal services
2357 for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of
2358 Title 2.2;
- 2359 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person
2360 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
2361 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
2362 from any other source aid or contributions of either money, property, or other things of value, to be held, used,
2363 and applied only for the purposes for which such grants and contributions may be made. All federal moneys
2364 accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as
2365 are prescribed by the United States and as are consistent with state law, and all state moneys accepted under
2366 this section shall be expended by the Authority upon such terms and conditions as are prescribed by the
2367 Commonwealth;
- 2368 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall
2369 be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.
2370 The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee
2371 of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any
2372 delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the
2373 exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive
2374 summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to
2375 ensure faithful performance of the duties and tasks;

- 2376 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
2377 purposes or necessary or convenient to exercise its powers;
- 2378 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
2379 construction, based upon competitive principles;
- 2380 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
2381 2.2;
- 2382 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and
2383 to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
- 2384 12. Buy and sell any mixers;
- 2385 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
2386 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
2387 (clothing);
- 2388 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
- 2389 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
2390 operated and the location of such stores;
- 2391 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
2392 beverages to and from such warehouses;
- 2393 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
2394 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
2395 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
2396 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
2397 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
2398 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and
2399 conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed,
2400 tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and
2401 conditions as may be determined by the Board; and occupy and improve any land or building required for the
2402 purposes of this ~~title~~ subtitle;
- 2403 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
2404 necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending, and
2405 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
2406 beverages;
- 2407 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
2408 kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed
2409 thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
2410 alcohol;
- 2411 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds
2412 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts
2413 and professionals;
- 2414 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
2415 of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer
2416 oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold
2417 and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases,
2418 subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent
2419 agreements and may request and accept from any applicant or licensee a consent agreement in lieu of
2420 proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement
2421 shall include findings of fact and may include an admission or a finding of a violation. A consent agreement
2422 shall not be considered a case decision of the Board and shall not be subject to judicial review under the
2423 provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future
2424 disciplinary proceedings;

2425 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to
2426 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2427 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest
2428 in obtaining the information requested if such information is not to be used for commercial or trade purposes;

2429 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §
2430 4.1-111;

2431 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of
2432 alcoholic beverages;

2433 25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ *subtitle* and Board
2434 regulations;

2435 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

2436 27. Establish minimum food sale requirements for all retail licensees;

2437 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive
2438 Officer as the Board deems appropriate;

2439 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
2440 activities undertaken to enforce the provisions of this ~~title~~ *subtitle*;

2441 30. Establish and collect fees for all permits set forth in this ~~title~~ *subtitle*, including fees associated with
2442 applications for such permits;

2443 31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated
2444 by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of
2445 the applicable state license fee; and

2446 32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ *subtitle*.

2447 **§ 4.1-104. Purchases by the Board.**

2448 The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits
2449 intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended
2450 for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this ~~title~~
2451 *subtitle* are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2452 **§ 4.1-105. Police power of members, agents and employees of Board.**

2453 Members of the Board are vested, and such agents and employees of the Board designated by it shall be
2454 vested, with like power to enforce the provisions of (i) this ~~title~~ *subtitle* and the criminal laws of the
2455 Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii)
2456 § 18.2-371.2; and (iv) § 58.1-1037.

2457 **§ 4.1-106. Liability of Board members; suits by and against Board.**

2458 A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his
2459 duties as prescribed by this ~~title~~ *subtitle*, except by the Commonwealth, and then only in the Circuit Court of
2460 the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the
2461 Attorney General.

2462 B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond
2463 to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the
2464 proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the
2465 names of, the members of the Board.

2466 **§ 4.1-107. Counsel for members, agents and employees of Board.**

2467 If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any
2468 charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ
2469 special counsel approved by the Attorney General to defend such member, agent, or employee. The
2470 compensation for special counsel employed pursuant to this section, shall, subject to the approval of the
2471 Attorney General, be paid in the same manner as other expenses incident to the administration of this ~~title~~
2472 *subtitle* are paid.

2473 **§ 4.1-111. (Effective until July 1, 2021) Regulations of Board.**

2474 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ *subtitle* or the general
2475 laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ *subtitle* and to
2476 prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board
2477 may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in
2478 accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

2479 B. The Board shall promulgate regulations that:

2480 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed
2481 on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine
2482 and beer may be sold.

2483 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by
2484 such licensee.

2485 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers,
2486 importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs,
2487 quantity and value of the articles or services involved; prevent undue competitive domination of any person by
2488 any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages
2489 in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

2490 4. Establish requirements for the form, content, and retention of all records and accounts, including the (i)
2491 reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all
2492 licensees.

2493 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
2494 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
2495 record with the Board by certified mail, return receipt requested, and by regular mail.

2496 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit
2497 bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the
2498 provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers'
2499 seals, marks, or stamps affixed to the bottles are intact.

2500 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for
2501 purchases at government stores, including provision for the collection, where appropriate, of related fees,
2502 penalties, and service charges.

2503 8. Require that banquet licensees in charge of public events as defined by Board regulations report to the
2504 Board the income and expenses associated with the public event on a form prescribed by the Board when the
2505 banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet
2506 licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

2507 9. Provide alternative methods for licensees to maintain and store business records that are subject to Board
2508 inspection, including methods for Board-approved electronic and off-site storage.

2509 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half
2510 of one percent or more of alcohol by volume in the same location where wine and beer are available for sale
2511 within the licensed premises.

2512 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell
2513 flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

2514 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
2515 subsection C of § 4.1-232.

2516 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages,
2517 not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise
2518 promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully
2519 sold. Such regulations shall:

2520 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the
2521 general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as
2522 provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as
2523 set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against

2524 cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in
2525 Board regulation; and

2526 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the
2527 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter
2528 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in §
2529 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

2530 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to
2531 an agreement with a brand owner not under common control with the manufacturing brewery and sell and
2532 deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be
2533 an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the
2534 parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

2535 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall
2536 permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and
2537 any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using
2538 creative marketing techniques in such advertisements, provided that such techniques do not tend to induce
2539 overconsumption or consumption by minors.

2540 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of
2541 wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such
2542 products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any
2543 Board limitations on the frequency of such gifts.

2544 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass,
2545 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board,
2546 with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2547 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic,
2548 metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a
2549 maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used
2550 only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop
2551 licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade
2552 name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the
2553 retailer.

2554 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises
2555 and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers
2556 made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for
2557 metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an
2558 order from the consumer.

2559 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages
2560 and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the
2561 Board.

2562 21. Establish and make available to all licensees and permittees for which on-premises consumption of
2563 alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or
2564 otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training
2565 module, which shall include (i) information that enables licensees, permittees, and their employees to recognize
2566 situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from
2567 culminating in sexual assault.

2568 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available
2569 for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be
2570 available in all areas of the licensed premises in which spirits are sold or served.

2571 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2572 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other

2573 documents necessary to verify the licensee's compliance with applicable minimum food sale requirements
 2574 within 30 days of the date such records or documents are due.

2575 C. The Board may promulgate regulations that:

2576 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based
 2577 on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the
 2578 applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause
 2579 (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting
 2580 of such waiver shall be limited to two events per year for each applicant.

2581 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of
 2582 any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

2583 3. Provide incentives to licensees with a proven history of compliance with state and federal laws and
 2584 regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial
 2585 to the Commonwealth.

2586 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
 2587 licensees.

2588 E. Courts shall take judicial notice of Board regulations.

2589 F. The Board's power to regulate shall be broadly construed.

2590 **§ 4.1-111. (Effective July 1, 2021) Regulations of Board.**

2591 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ *subtitle* or the general
 2592 laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ *subtitle* and to
 2593 prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board
 2594 may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in
 2595 accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

2596 B. The Board shall promulgate regulations that:

2597 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed
 2598 on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine
 2599 and beer may be sold.

2600 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by
 2601 such licensee.

2602 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers,
 2603 importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs,
 2604 quantity and value of the articles or services involved; prevent undue competitive domination of any person by
 2605 any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages
 2606 in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

2607 4. Establish requirements for the form, content, and retention of all records and accounts, including the (i)
 2608 reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all
 2609 licensees.

2610 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
 2611 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
 2612 record with the Board by certified mail, return receipt requested, and by regular mail.

2613 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit
 2614 bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the
 2615 provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers'
 2616 seals, marks, or stamps affixed to the bottles are intact.

2617 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for
 2618 purchases at government stores, including provision for the collection, where appropriate, of related fees,
 2619 penalties, and service charges.

2620 8. Require that banquet licensees in charge of public events as defined by Board regulations report to the
 2621 Board the income and expenses associated with the public event on a form prescribed by the Board when the

2622 banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet
2623 licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

2624 9. Provide alternative methods for licensees to maintain and store business records that are subject to Board
2625 inspection, including methods for Board-approved electronic and off-site storage.

2626 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half
2627 of one percent or more of alcohol by volume in the same location where wine and beer are available for sale
2628 within the licensed premises.

2629 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell
2630 flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

2631 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
2632 subsection C of § 4.1-232.

2633 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages,
2634 not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise
2635 promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully
2636 sold. Such regulations shall:

2637 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the
2638 general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as
2639 provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as
2640 set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against
2641 cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in
2642 Board regulation; and

2643 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the
2644 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter
2645 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in §
2646 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

2647 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to
2648 an agreement with a brand owner not under common control with the manufacturing brewery and sell and
2649 deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be
2650 an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the
2651 parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

2652 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall
2653 permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and
2654 any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using
2655 creative marketing techniques in such advertisements, provided that such techniques do not tend to induce
2656 overconsumption or consumption by minors.

2657 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of
2658 wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such
2659 products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any
2660 Board limitations on the frequency of such gifts.

2661 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass,
2662 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board,
2663 with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2664 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic,
2665 metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a
2666 maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used
2667 only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops
2668 granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i)
2669 the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and
2670 (iv) the name and address of the retailer.

2671 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises
2672 and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-
2673 premises consumption in sealed containers made of metal or other materials approved by the Board with a
2674 maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic
2675 beverage is placed in the container following an order from the consumer.

2676 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages
2677 and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the
2678 Board.

2679 21. Establish and make available to all licensees and permittees for which on-premises consumption of
2680 alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or
2681 otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training
2682 module, which shall include (i) information that enables licensees, permittees, and their employees to recognize
2683 situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from
2684 culminating in sexual assault.

2685 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available
2686 for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be
2687 available in all areas of the licensed premises in which spirits are sold or served.

2688 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2689 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other
2690 documents necessary to verify the licensee's compliance with applicable minimum food sale requirements
2691 within 30 days of the date such records or documents are due.

2692 C. The Board may promulgate regulations that:

2693 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based
2694 on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the
2695 applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause
2696 (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting
2697 of such waiver shall be limited to two events per year for each applicant.

2698 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of
2699 any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

2700 3. Provide incentives to licensees with a proven history of compliance with state and federal laws and
2701 regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial
2702 to the Commonwealth.

2703 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
2704 licensees.

2705 E. Courts shall take judicial notice of Board regulations.

2706 F. The Board's power to regulate shall be broadly construed.

2707 **§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

2708 A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the
2709 road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement
2710 is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue,
2711 mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher
2712 education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for
2713 residential use.

2714 B. However, (i) if there is no building or structure on a playground or similar recreational facility, the
2715 measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the
2716 property line of such playground or similar recreational facility and (ii) if a public or private school providing
2717 grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest
2718 edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure
2719 located on such real property across the road.

2720 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a
2721 church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an
2722 institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a
2723 dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in
2724 violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of
2725 the term of any written advertising contract, but in no event more than one year from the date of the change in
2726 circumstances.

2727 D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon
2728 a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to
2729 alcoholic beverage advertising.

2730 E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions
2731 contained in this section shall not apply to:

2732 1. Signs placed by licensees upon the property on which the licensed premises are located; or

2733 2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand
2734 names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

2735 F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included
2736 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its
2737 agents.

2738 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic
2739 beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this
2740 section be construed to authorize the erection of new billboard signs containing outdoor advertising that would
2741 be prohibited under state law or local ordinance.

2742 H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~
2743 *subtitle*, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant
2744 thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign
2745 located or to be located on highway rights of way shall also be governed by and comply with the Integrated
2746 Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2747 **§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.**

2748 All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~ *subtitle*,
2749 Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto
2750 by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located
2751 or to be located on highway rights-of-way shall also be governed by and comply with the Integrated Directional
2752 Sign Program administered by the Virginia Department of Transportation or its agents.

2753 **§ 4.1-115. Reports and accounting systems of Board; auditing books and records.**

2754 A. The Board shall make reports to the Governor as he may require covering the administration and
2755 enforcement of this ~~title~~ *subtitle*. Additionally, the Board shall submit an annual report to the Governor and
2756 General Assembly on or before December 15 each year, which shall contain:

2757 1. A statement of the nature and amount of the business transacted by each government store during the
2758 year;

2759 2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and
2760 such other financial statements and matters as may be necessary to show the result of the operations of the
2761 Board for the year;

2762 3. A statement showing the taxes collected under this ~~title~~ *subtitle* during the year;

2763 4. General information and remarks about the working of the alcoholic beverage control laws within the
2764 Commonwealth; and

2765 5. Any other information requested by the Governor.

2766 B. The Board shall maintain an accounting system in compliance with generally accepted accounting
2767 principles and approved in accordance with § 2.2-803.

2768 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of
2769 a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor

2770 of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be
 2771 borne by the Board. The Board may order such other audits as it deems necessary.

2772 **§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.**

2773 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be
 2774 deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries,
 2775 fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

2776 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be
 2777 set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and
 2778 remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in
 2779 establishing and maintaining government stores and in the administration of the provisions of this ~~title~~ subtitle,
 2780 including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic
 2781 beverages.

2782 B. The net profits derived under the provisions of this ~~title~~ subtitle shall be transferred by the Comptroller
 2783 to the general fund of the state treasury quarterly, within ~~fifty~~ 50 days after the close of each quarter or as
 2784 otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net
 2785 profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection
 2786 with the administration of this ~~title~~ subtitle and to provide for the depreciation on the buildings, plants and
 2787 equipment owned, held or operated by the Board.

2788 C. The term "net profits" as used in this section means the total of all moneys collected by the Board less
 2789 all costs, expenses and charges authorized by this section.

2790 **§ 4.1-118. Certain information not to be made public.**

2791 Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records
 2792 required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by
 2793 wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any
 2794 person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to
 2795 this ~~title~~ subtitle and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer
 2796 and wine licensees.

2797 Nothing contained in this section shall prohibit the use or release of such information or documents by the
 2798 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,
 2799 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

2800 Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member
 2801 of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as
 2802 such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total
 2803 quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer
 2804 for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales
 2805 in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales
 2806 submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the
 2807 licensee.

2808 **§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.**

2809 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate
 2810 government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries,
 2811 low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including
 2812 any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board
 2813 from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such
 2814 counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

2815 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to
 2816 farm wineries that produce 2,500 cases or less of wine or cider per year.

2817 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of
 2818 alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the
 2819 cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic

2820 beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i)
2821 authorized and operating under the laws of the United States and regulations of the United States Department
2822 of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
2823 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other
2824 authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix
2825 the retail price of alcoholic beverages sold at government stores, which retail price may include promotional,
2826 volume, or other discounts deemed appropriate by the Board.

2827 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry
2828 out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and
2829 the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers
2830 and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by
2831 or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)
2832 on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the
2833 purpose of featuring and educating the consuming public about spirits products.

2834 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this
2835 ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed
2836 distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this
2837 subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller
2838 makes application and meets certain requirements established by the Board, such agreement shall allow monthly
2839 revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding
2840 the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and
2841 markups.

2842 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and
2843 shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to
2844 be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic
2845 beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

2846 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive
2847 character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon
2848 permits issued by the Board for industrial, commercial, culinary, or medical use.

2849 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G
2850 sold in government stores established by the Board on a distiller's licensed premises, shall be in closed
2851 containers, sealed and affixed with labels prescribed by the Board.

2852 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an
2853 organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or
2854 (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the
2855 Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any
2856 consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample
2857 may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-
2858 304.

2859 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant
2860 to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may
2861 be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are
2862 manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery,
2863 brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-
2864 half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain
2865 up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products
2866 or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per
2867 day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing
2868 in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such
2869 mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on

2870 contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such
2871 samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent
2872 of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties
2873 of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed
2874 distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or
2875 on contiguous premises of the licensed distillery shall be purchased from the Board.

2876 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

2877 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment
2878 area to the tasting area of a government store established by the Board on the distiller's licensed premises shall
2879 be waived if such spirits are moved by employees of the licensed distiller.

2880 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment
2881 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to
2882 the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees
2883 on Board policies relating to the assignment of government stores from which licensees may purchase products
2884 and any procedure for the licensee to elect to make purchases from an alternative government store.

2885 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment
2886 for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit
2887 card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related
2888 fees, penalties and service charges for the use of a credit card or debit card by any consumer.

2889 J. Before the Authority implements any increase in the markup on distilled spirits or any change to the
2890 markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of
2891 distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a
2892 price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the
2893 proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding
2894 the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price
2895 increase.

2896 **§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.**

2897 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate
2898 government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries,
2899 low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including
2900 any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board
2901 from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such
2902 counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

2903 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to
2904 farm wineries that produce 2,500 cases or less of wine or cider per year.

2905 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of
2906 alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the
2907 cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic
2908 beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i)
2909 authorized and operating under the laws of the United States and regulations of the United States Department
2910 of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
2911 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other
2912 authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix
2913 the retail price of alcoholic beverages sold at government stores, which retail price may include promotional,
2914 volume, or other discounts deemed appropriate by the Board.

2915 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry
2916 out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and
2917 the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers
2918 and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by
2919 or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)

2920 on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the
2921 purpose of featuring and educating the consuming public about spirits products.

2922 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this
2923 ~~the subtitle~~, Board regulations, and the terms of the agency agreement between the Authority and the licensed
2924 distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this
2925 subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller
2926 makes application and meets certain requirements established by the Board, such agreement shall allow monthly
2927 revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding
2928 the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and
2929 markups.

2930 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and
2931 shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to
2932 be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic
2933 beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

2934 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive
2935 character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon
2936 permits issued by the Board for industrial, commercial, culinary, or medical use.

2937 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G
2938 sold in government stores established by the Board on a distiller's licensed premises, shall be in closed
2939 containers, sealed and affixed with labels prescribed by the Board.

2940 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an
2941 organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or
2942 (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the
2943 Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any
2944 consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample
2945 may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-
2946 304.

2947 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant
2948 to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may
2949 be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are
2950 manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery,
2951 brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-
2952 half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain
2953 up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three
2954 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method
2955 is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from
2956 serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or
2957 vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery,
2958 provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises
2959 or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D
2960 may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the
2961 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such
2962 samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery
2963 shall be purchased from the Board.

2964 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

2965 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment
2966 area to the tasting area of a government store established by the Board on the distiller's licensed premises shall
2967 be waived if such spirits are moved by employees of the licensed distiller.

2968 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment
2969 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to

2970 the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees
 2971 on Board policies relating to the assignment of government stores from which licensees may purchase products
 2972 and any procedure for the licensee to elect to make purchases from an alternative government store.

2973 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment
 2974 for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit
 2975 card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related
 2976 fees, penalties and service charges for the use of a credit card or debit card by any consumer.

2977 J. Before the Authority implements any increase in the markup on distilled spirits or any change to the
 2978 markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of
 2979 distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a
 2980 price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the
 2981 proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding
 2982 the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price
 2983 increase.

2984 **§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

2985 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate
 2986 government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries,
 2987 low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including
 2988 any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board
 2989 from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such
 2990 counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

2991 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to
 2992 farm wineries that produce 2,500 cases or less of wine or cider per year.

2993 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of
 2994 alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the
 2995 cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic
 2996 beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i)
 2997 authorized and operating under the laws of the United States and regulations of the United States Department
 2998 of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
 2999 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other
 3000 authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix
 3001 the retail price of alcoholic beverages sold at government stores, which retail price may include promotional,
 3002 volume, or other discounts deemed appropriate by the Board.

3003 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry
 3004 out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and
 3005 the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers
 3006 and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by
 3007 or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)
 3008 on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the
 3009 purpose of featuring and educating the consuming public about spirits products.

3010 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this
 3011 ~~title~~ *subsubtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed
 3012 distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this
 3013 subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller
 3014 makes application and meets certain requirements established by the Board, such agreement shall allow monthly
 3015 revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding
 3016 the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and
 3017 markups.

3018 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and
 3019 shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to

3020 be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic
3021 beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

3022 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive
3023 character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon
3024 permits issued by the Board for industrial, commercial, culinary, or medical use.

3025 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G
3026 sold in government stores established by the Board on a distiller's licensed premises, shall be in closed
3027 containers, sealed and affixed with labels prescribed by the Board.

3028 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an
3029 organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or
3030 (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the
3031 Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any
3032 consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample
3033 may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-
3034 304.

3035 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant
3036 to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may
3037 be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are
3038 manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery,
3039 brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-
3040 half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain
3041 up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three
3042 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method
3043 is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from
3044 serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or
3045 vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery,
3046 provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises
3047 or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D
3048 may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the
3049 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such
3050 samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery
3051 shall be purchased from the Board.

3052 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

3053 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment
3054 area to the tasting area of a government store established by the Board on the distiller's licensed premises shall
3055 be waived if such spirits are moved by employees of the licensed distiller.

3056 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment
3057 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to
3058 the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees
3059 on Board policies relating to the assignment of government stores from which licensees may purchase products
3060 and any procedure for the licensee to elect to make purchases from an alternative government store.

3061 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment
3062 for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit
3063 card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related
3064 fees, penalties and service charges for the use of a credit card or debit card by any consumer.

3065 J. Before the Authority implements any increase in the markup on distilled spirits or any change to the
3066 markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of
3067 distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a
3068 price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the
3069 proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding

3070 the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price
 3071 increase.

3072 **§ 4.1-122. Effect of local option referenda.**

3073 A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of
 3074 the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of
 3075 the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages
 3076 voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of
 3077 such county, city, or town authorized under this ~~title~~ *subtitle* to acquire the alcoholic beverages for resale. This
 3078 subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to
 3079 bona fide passengers.

3080 B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters
 3081 have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent election a
 3082 majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such
 3083 alcoholic beverages may, in accordance with this ~~title~~ *subtitle*, be sold within the county, city, or town on and
 3084 after 60 days from the day on which the order of the court setting forth the results of such election is entered of
 3085 record.

3086 C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election
 3087 district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of
 3088 alcoholic beverages, other than beer and wine not produced by farm wineries, shall be prohibited in such county,
 3089 town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under
 3090 § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election
 3091 district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the
 3092 appropriate license fees are paid for the privilege.

3093 D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or
 3094 shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic
 3095 beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county,
 3096 city, or town, except as otherwise prohibited by this ~~title~~ *subtitle*.

3097 E. For the purpose of this section, when any referendum is held in any town, separate and apart from the
 3098 county in which such town or a part thereof is located, such town shall be treated as being separate and apart
 3099 from such county.

3100 **§ 4.1-124. (Effective until July 1, 2021) Referendum on the sale of mixed beverages.**

3101 A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town,
 3102 county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote
 3103 "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~
 3104 *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county
 3105 may file a petition with the circuit court of the county asking that a referendum be held on the question of
 3106 whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that
 3107 jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number
 3108 registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100
 3109 qualified voters, whichever is greater.

3110 Petition requirements for any county shall be based on the number of registered voters in the county,
 3111 including the number of registered voters in any town having a population in excess of 1,000 located within
 3112 such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election
 3113 officials of the county to conduct a referendum on the question.

3114 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general
 3115 circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior
 3116 to the referendum.

3117 The question on the ballot shall be:

3118 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage
3119 Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of
3120 county)?"

3121 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et
3122 seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the
3123 court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages
3124 prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's
3125 election district of a county on or after 30 days following the entry of the order if a majority of the voters voting
3126 in the referendum have voted "Yes."

3127 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the
3128 same extent and subject to the same conditions and limitations as are otherwise applicable to counties under
3129 this section. Such towns shall be treated as separate local option units, and only residents of any such town shall
3130 be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having
3131 a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this
3132 section for any county in which the town is located.

3133 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
3134 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et
3135 seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed
3136 under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters
3137 voting in such referendum voted "Yes."

3138 B. Once a referendum has been held, no other referendum on the same question shall be held in the town,
3139 county, or supervisor's election district of a county for a period of 23 months.

3140 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property
3141 dedicated for industrial or commercial development and controlled through the provision of public utilities and
3142 covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter
3143 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement
3144 between three or more counties, cities, or towns and such jurisdictions participate administratively and
3145 financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties,
3146 cities, towns, or a supervisor's election district of one of the counties and that the governing board of the
3147 authority authorizes an establishment located within the confines of such property to apply to the Board for
3148 such license. The appropriate license fees shall be paid for this privilege.

3149 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale
3150 of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by
3151 farm wineries by the Board, shall be allowed in any city in the Commonwealth.

3152 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license
3153 to a restaurant located on the premises of and operated by a private club exclusively for its members and their
3154 guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210.
3155 However, no license authorized by this subsection shall be granted if the private club restricts its membership
3156 on the basis of race, color, creed, national origin or sex.

3157 **§ 4.1-124. (Effective July 1, 2021) Referendum on the sale of mixed beverages.**

3158 A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town,
3159 county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote
3160 "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~
3161 *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county
3162 may file a petition with the circuit court of the county asking that a referendum be held on the question of
3163 whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that
3164 jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number
3165 registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100
3166 qualified voters, whichever is greater.

3167 Petition requirements for any county shall be based on the number of registered voters in the county,
3168 including the number of registered voters in any town having a population in excess of 1,000 located within
3169 such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election
3170 officials of the county to conduct a referendum on the question.

3171 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general
3172 circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior
3173 to the referendum.

3174 The question on the ballot shall be:

3175 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage
3176 Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of
3177 county)?"

3178 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et
3179 seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the
3180 court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages
3181 prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's
3182 election district of a county on or after 30 days following the entry of the order if a majority of the voters voting
3183 in the referendum have voted "Yes."

3184 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the
3185 same extent and subject to the same conditions and limitations as are otherwise applicable to counties under
3186 this section. Such towns shall be treated as separate local option units, and only residents of any such town shall
3187 be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having
3188 a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this
3189 section for any county in which the town is located.

3190 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
3191 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et
3192 seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed
3193 under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters
3194 voting in such referendum voted "Yes."

3195 B. Once a referendum has been held, no other referendum on the same question shall be held in the town,
3196 county, or supervisor's election district of a county for a period of 23 months.

3197 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property
3198 dedicated for industrial or commercial development and controlled through the provision of public utilities and
3199 covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter
3200 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement
3201 between three or more counties, cities, or towns and such jurisdictions participate administratively and
3202 financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties,
3203 cities, towns, or a supervisor's election district of one of the counties and that the governing board of the
3204 authority authorizes an establishment located within the confines of such property to apply to the Board for
3205 such license. The appropriate license fees shall be paid for this privilege.

3206 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale
3207 of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by
3208 farm wineries by the Board, shall be allowed in any city in the Commonwealth.

3209 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license
3210 to a restaurant located on the premises of and operated by a private club exclusively for its members and their
3211 guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3.
3212 However, no license authorized by this subsection shall be granted if the private club restricts its membership
3213 on the basis of race, color, creed, national origin, or sex.

3214 **§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.**

3215 A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or
3216 resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution,

3217 handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth.
 3218 Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage,
 3219 warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law
 3220 at a licensed farm winery.

3221 No provision of law, general or special, shall be construed to authorize any county, city or town to adopt
 3222 any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes
 3223 authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any
 3224 county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the
 3225 sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee
 3226 specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by
 3227 general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same
 3228 as if they were nonalcoholic beverages.

3229 B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the
 3230 acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the
 3231 acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of
 3232 § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks,
 3233 playgrounds, public streets, and any sidewalk adjoining any public street.

3234 C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities
 3235 and towns, inconsistent with any of the provisions of this ~~title~~ subtitle, are repealed to the extent of such
 3236 inconsistency.

3237 **§ 4.1-200. Exemptions from licensure.**

3238 The licensure requirements of this chapter shall not apply to:

3239 1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons
 3240 in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be
 3241 administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the
 3242 same, either by way of external application or otherwise for emergency medicinal purposes. Such person may
 3243 charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose.
 3244 No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have
 3245 been supplied to the institution by the Board free of charge.

3246 2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in
 3247 such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3248 3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in
 3249 such business of any medicinal preparations manufactured in accordance with formulas prescribed by the
 3250 United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide
 3251 medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal
 3252 properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the
 3253 medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used
 3254 exclusively as medicine and not as beverages.

3255 4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and
 3256 solutions not intended for internal human use nor to be sold as beverages.

3257 5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold
 3258 for cooking and culinary purposes only and not sold as beverages.

3259 6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption
 3260 at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or
 3261 both, in an amount not to exceed the limits permitted by federal law.

3262 Any person who manufactures wine or beer in accordance with this subdivision may remove from his
 3263 residence an amount not to exceed ~~fifty~~ 50 liters of such wine or ~~fifteen~~ 15 gallons of such beer on any one
 3264 occasion for (i) personal or family use, provided such use does not violate the provisions of this ~~title~~ subtitle or
 3265 Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed
 3266 (a) one liter of wine per person per year or (b) ~~seventy-two~~ 72 ounces of beer per person per year, provided

3267 such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a
3268 sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by
3269 volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including
3270 events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the
3271 sale of such wine or beer.

3272 The provision of this subdivision shall not apply to any person who resides on property on which a winery,
3273 farm winery, or brewery is located.

3274 7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his
3275 personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such
3276 residence by such person, his family or servants when (i) such guests are 21 years of age or older or are
3277 accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession
3278 of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic
3279 beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no
3280 way a shift or device to evade the provisions of this ~~title~~ *subtitle*. The provisions of this subdivision shall not
3281 apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of
3282 a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently
3283 resides in the residence is present during the short-term rental.

3284 8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures
3285 wine from grapes grown by such person and sells it to winery licensees.

3286 9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when
3287 permitted by the proper authority of the United States.

3288 10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or
3289 private party limited in attendance to members and guests of a particular group, association or organization at
3290 a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet
3291 license shall be required for private meetings or private parties limited in attendance to the members of a
3292 common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages
3293 shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is
3294 limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii)
3295 such meetings or parties are not open to the public.

3296 **§ 4.1-201. (Effective until July 1, 2021) Conduct not prohibited by this subtitle; limitation.**

3297 A. Nothing in this ~~title~~ *subtitle* or any Board regulation adopted pursuant thereto shall prohibit:

3298 1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic
3299 beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or
3300 given away in violation of this ~~title~~ *subtitle*.

3301 2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully
3302 produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board
3303 or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations.
3304 However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in
3305 accordance with Board regulations.

3306 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic
3307 beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic
3308 beverages.

3309 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed
3310 containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons
3311 licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as
3312 provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States
3313 sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for
3314 resale outside the Commonwealth.

3315 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such
3316 license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the

3317 places of business or establishments for which the retail licenses are desired are located upon the premises
3318 occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous
3319 to such premises, or in a development contiguous to such premises owned and operated by such person or a
3320 wholly owned subsidiary.

3321 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine
3322 and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic
3323 beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for
3324 resale outside the Commonwealth.

3325 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers
3326 from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery
3327 licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed
3328 containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of
3329 wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such
3330 wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of
3331 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

3332 8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from
3333 fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery
3334 or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the
3335 Commonwealth for resale outside of the Commonwealth.

3336 9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another
3337 farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and
3338 the return of the wine so bottled to the manufacturing farm winery or winery licensee.

3339 10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers
3340 to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving
3341 licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural
3342 product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh
3343 fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to
3344 the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits
3345 or agricultural products used to produce the wine so transferred.

3346 11. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to persons to
3347 whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-premises wine or
3348 beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic
3349 beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or
3350 employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be
3351 lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall
3352 not exceed four ounces, and samples of spirits shall not exceed one-half ounce. No more than two product
3353 samples shall be given to any person per visit.

3354 12. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed
3355 in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail
3356 licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed
3357 establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his
3358 payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each
3359 sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property
3360 normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers
3361 including, but not limited to, glasses, napkins, buckets, and coasters.

3362 13. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the
3363 Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including
3364 wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such
3365 items may be distributed to retail licensees in quantities equal to the number of employees of the retail

3366 establishment present at the time the items are delivered. Thereafter, such employees may wear or display the
3367 items on the licensed premises.

3368 14. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale or selling
3369 for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers
3370 consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent
3371 or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be
3372 lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

3373 15. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine,
3374 beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided
3375 that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell
3376 such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by
3377 the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such
3378 customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such
3379 customer.

3380 16. Any winery, farm winery, wine importer, or wine wholesaler licensee from providing to adult customers
3381 of licensed retail establishments information about wine being consumed on such premises.

3382 17. Any private swim club operated by a duly organized nonprofit corporation or association from allowing
3383 members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such
3384 alcoholic beverages on the premises of such club.

3385 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale
3386 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving
3387 or selling the same.

3388 **§ 4.1-201. (Effective July 1, 2021) Conduct not prohibited by this subtitle; limitation.**

3389 A. Nothing in this ~~title~~ subtitle or any Board regulation adopted pursuant thereto shall prohibit:

3390 1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic
3391 beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or
3392 given away in violation of this ~~title~~ subtitle.

3393 2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully
3394 produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board
3395 or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations.
3396 However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in
3397 accordance with Board regulations.

3398 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic
3399 beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic
3400 beverages.

3401 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed
3402 containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons
3403 licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as
3404 provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States
3405 sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for
3406 resale outside the Commonwealth.

3407 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such
3408 license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the
3409 places of business or establishments for which the retail licenses are desired are located upon the premises
3410 occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous
3411 to such premises, or in a development contiguous to such premises owned and operated by such person or a
3412 wholly owned subsidiary.

3413 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine
3414 and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic

3415 beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for
3416 resale outside the Commonwealth.

3417 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers
3418 from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery
3419 licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed
3420 containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of
3421 wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such
3422 wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of
3423 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

3424 8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another
3425 farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and
3426 the return of the wine so bottled to the manufacturing farm winery or winery licensee.

3427 9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers
3428 to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving
3429 licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural
3430 product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh
3431 fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to
3432 the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits
3433 or agricultural products used to produce the wine so transferred.

3434 10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a sample of
3435 wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or
3436 any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons
3437 to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not
3438 exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-
3439 half ounce, unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-
3440 half ounces of spirits. No more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be
3441 given to any person per day.

3442 11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed
3443 in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail
3444 licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed
3445 establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his
3446 payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each
3447 sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property
3448 normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers
3449 including, but not limited to, glasses, napkins, buckets, and coasters.

3450 12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the
3451 Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including
3452 wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such
3453 items may be distributed to retail licensees in quantities equal to the number of employees of the retail
3454 establishment present at the time the items are delivered. Thereafter, such employees may wear or display the
3455 items on the licensed premises.

3456 13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale or selling
3457 for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers
3458 consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent
3459 or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be
3460 lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

3461 14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine,
3462 beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided
3463 that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell
3464 such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by

3465 the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such
3466 customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such
3467 customer.

3468 15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer importer,
3469 beer wholesaler, or distiller licensee from providing to adult customers of licensed retail establishments
3470 information about wine, beer, or spirits being consumed on such premises.

3471 16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing
3472 members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such
3473 alcoholic beverages on the premises of such club.

3474 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale
3475 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving
3476 or selling the same.

3477 **§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.**

3478 The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and to all
3479 agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under such
3480 license. The licensee may be held liable for any violation of this ~~title~~ subtitle or any Board regulation committed
3481 by such agents or employees in connection with their employment.

3482 **§ 4.1-205. (Effective until July 1, 2021) Local licenses.**

3483 A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or
3484 town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to
3485 charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic
3486 beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to
3487 § 4.1-233, the governing body of a county, city or town may classify licenses and graduate the license taxes
3488 therefor in the manner it deems proper.

3489 B. No county, city or town shall issue a local license to any person who does not hold or secure
3490 simultaneously the proper state license. If any person holds any local license without at the same time holding
3491 the proper state license, the local license, during the period when such person does not hold the proper state
3492 license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

3493 **§ 4.1-205. (Effective July 1, 2021) Local licenses.**

3494 A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or
3495 town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to
3496 charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic
3497 beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to
3498 § 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes
3499 therefor in the manner it deems proper.

3500 B. No county, city, or town shall issue a local license to any person who does not hold or secure
3501 simultaneously the proper state license. If any person holds any local license without at the same time holding
3502 the proper state license, the local license, during the period when such person does not hold the proper state
3503 license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

3504 **§ 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.**

3505 A. The Board may grant the following licenses relating to alcoholic beverages generally:

3506 1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine
3507 and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers,
3508 to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board
3509 has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119,
3510 such license shall also authorize the licensee to make a charge to consumers to participate in an organized
3511 tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

3512 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land
3513 zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are
3514 grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated

3515 as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision. For purposes
3516 of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or
3517 (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned
3518 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
3519 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3520 3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made
3521 from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in
3522 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
3523 Commonwealth.

3524 4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services
3525 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages
3526 on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for
3527 a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee
3528 or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer
3529 fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized
3530 by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board
3531 regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency
3532 station, provided such other premises are occupied and under the control of the volunteer fire department or
3533 volunteer emergency medical services agency while the privileges of its license are being exercised.

3534 5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining
3535 areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided,
3536 with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the
3537 amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the
3538 consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided
3539 in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For
3540 purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous
3541 to the licensed premises, which may have more than one means of ingress and egress to an adjacent public
3542 thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the
3543 Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to
3544 subdivision A 5 of § 4.1-201.

3545 6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the
3546 type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued
3547 for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A
3548 separate license shall be required for each day of each tasting event. No tasting license shall be required for
3549 conduct authorized by § 4.1-201.1.

3550 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3)
3551 of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully
3552 acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and
3553 (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof.
3554 However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3555 license shall be limited to the premises of the museum, regularly occupied and utilized as such.

3556 8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and
3557 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic
3558 beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages
3559 shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to
3560 the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and
3561 (ii) exercised on no more than four calendar days per year.

3562 9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired
3563 wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or
3564 beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more

3565 than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or
3566 otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license
3567 shall be limited to the premises of the day spa regularly occupied and utilized as such.

3568 10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption
3569 of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events.
3570 However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee.
3571 The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board
3572 that are regularly occupied and utilized for motor car sporting events.

3573 11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises
3574 of the licensee to any such bona fide customer attending either a private gathering or a special event; however,
3575 the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
3576 such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or
3577 consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly
3578 occupied and utilized as such.

3579 12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully
3580 acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private
3581 gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for
3582 the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the
3583 licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon
3584 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages
3585 on the premises in all areas and locations covered by the license.

3586 13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee
3587 participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the
3588 premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be
3589 sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than
3590 two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this
3591 license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised
3592 on no more than 12 calendar days per year.

3593 14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises
3594 of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce
3595 glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee
3596 to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the
3597 premises of the art instruction studio regularly occupied and utilized as such.

3598 15. Commercial lifestyle center license, which may be issued only to a commercial owners' association
3599 governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is
3600 a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom
3601 alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the
3602 commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways,
3603 or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is
3604 not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic
3605 beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed
3606 premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic,
3607 or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage
3608 clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle
3609 center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries
3610 of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall
3611 provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3612 ~~title~~ subtitle and Board regulations.

3613 16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises
3614 for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol
3615 contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

3616 17. Local special events license, which may be issued only to a locality, business improvement district, or
3617 nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic
3618 beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises
3619 licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages
3620 within the permanent retail location for consumption in the area designated for the special event, including
3621 sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of
3622 such businesses. In determining the designated area for the special event, the Board shall consult with the
3623 locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any
3624 special event shall not exceed three consecutive days. Such limitations on the number of special events that
3625 may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the
3626 Governor or State Health Commissioner to meet a public health emergency and that effectively reduces
3627 allowable restaurant seating capacity; however, local special events licensees shall be subject to all other
3628 applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding
3629 the days and times during which the privileges of the license will be exercised. Only alcoholic beverages
3630 purchased from permanent retail on-premises licensees located within the designated area may be consumed at
3631 the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable
3632 containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic
3633 beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special
3634 events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the
3635 public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The
3636 local special events licensee shall provide adequate security for the special event to ensure compliance with the
3637 applicable provisions of this ~~title~~ *subtitle* and Board regulations.

3638 18. Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of
3639 lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member
3640 and up to two guests of each member, provided that such member and guests are persons who may lawfully
3641 consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on
3642 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
3643 member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully
3644 served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses
3645 of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For
3646 purposes of this subdivision, the payment of membership dues by a member to the coworking establishment
3647 shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for
3648 which the amount of membership dues increases. The privileges of this license shall be limited to the premises
3649 of the coworking establishment, regularly occupied and utilized as such.

3650 19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-
3651 premises consumption upon the licensed premises approved by the Board to any member; however, the licensee
3652 shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such
3653 customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed.
3654 For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier
3655 establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a
3656 privilege for which the amount of membership dues increases. The privileges of this license shall be limited to
3657 the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

3658 B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in
3659 accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an agricultural
3660 district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to
3661 continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a
3662 subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer,

3663 acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential
3664 conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long
3665 as specifically approved by the locality by special exception. Any such limited distillery located on land zoned
3666 residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically
3667 approved by the locality by special exception. All such licensees shall comply with the requirements of this ~~title~~
3668 *subtitle* and Board regulations for renewal of such license or the issuance of a new license in the event of a
3669 change in ownership of the limited distillery on or after July 1, 2016.

3670 **§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.**

3671 The Board may grant the following manufacturer licenses:

3672 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine
3673 and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers,
3674 to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board
3675 has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119,
3676 such license shall also authorize the licensee to make a charge to consumers to participate in an organized
3677 tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

3678 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land
3679 zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are
3680 grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated
3681 as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision. For purposes
3682 of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or
3683 (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned
3684 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
3685 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3686 3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship
3687 the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to
3688 sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth.
3689 Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the
3690 brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of
3691 the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed
3692 premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-
3693 premises consumption.

3694 4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar
3695 year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and
3696 owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains,
3697 hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises
3698 shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops,
3699 or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises
3700 of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However,
3701 the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also
3702 approve other portions of the farm to be included as part of the licensed premises. For purposes of this
3703 subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b)
3704 land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned
3705 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
3706 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3707 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ *subtitle* except as
3708 otherwise provided in this subdivision.

3709 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship
3710 the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so
3711 manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
3712 outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling

3713 equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which
 3714 shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking
 3715 facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded
 3716 warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the
 3717 place of business designated in the winery license for on-premises consumption or in closed containers for off-
 3718 premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a
 3719 wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed
 3720 premises.

3721 6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or
 3722 less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed
 3723 containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose
 3724 of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive
 3725 deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations,
 3726 to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the
 3727 Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with
 3728 Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits
 3729 issued by the Board. For the purposes of this ~~title~~ *sub*title, a farm winery license shall be designated either as a
 3730 Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery
 3731 may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee
 3732 operating a contract winemaking facility.

3733 Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in
 3734 the licenses, which may include no more than five additional retail establishments of the licensee. Wine may
 3735 be sold at these business places for on-premises consumption and in closed containers for off-premises
 3736 consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a
 3737 wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-
 3738 premises consumption at these business places.

3739 7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to
 3740 sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the
 3741 Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the
 3742 Commonwealth for resale outside the Commonwealth.

3743 8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to
 3744 sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the
 3745 Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the
 3746 Commonwealth for resale outside the Commonwealth.

3747 **§ 4.1-206.2. (Effective July 1, 2021) Wholesale licenses.**

3748 The Board may grant the following wholesale licenses:

3749 1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
 3750 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license,
 3751 in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such
 3752 beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United
 3753 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
 3754 for resale outside the Commonwealth.

3755 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who
 3756 does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and
 3757 purchases beer for resale pursuant to the privileges of such beer importer's license.

3758 2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize the
 3759 licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from
 3760 one or more premises identified in the license, in accordance with Board regulations, in closed containers, to
 3761 (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale
 3762 outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners

3763 of boats registered under the laws of the United States sailing for ports of call of a foreign country or another
3764 state.

3765 No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who
3766 does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and
3767 purchases wine for resale pursuant to the privileges of such wine importer's license.

3768 3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in
3769 accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and
3770 farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery
3771 licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution
3772 services in accordance with the terms of a written agreement approved by the corporation between it and the
3773 winery or farm winery licensee, which shall comply with the provisions of this ~~title~~ subtitle and Board
3774 regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations
3775 governing wholesale wine licenses granted under subdivision 2.

3776 **§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.**

3777 A. The Board may grant the following mixed beverages licenses:

3778 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages
3779 for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only
3780 to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared,
3781 and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such
3782 license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the
3783 purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not
3784 contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and
3785 egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved
3786 by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant
3787 to subdivision A 5 of § 4.1-201.

3788 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms
3789 where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and
3790 other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for
3791 consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in
3792 original closed containers purchased from the Board for on-premises consumption to registered guests and at
3793 scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a
3794 hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic
3795 beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit
3796 any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

3797 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively
3798 for its members and their guests, or members of another private, nonprofit, or profit club in another city with
3799 which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1)
3800 sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original
3801 closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board
3802 for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food
3803 requirements from a restaurant licensed by the Board and located on another portion of the premises of the same
3804 hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying
3805 in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises
3806 and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of
3807 its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club
3808 shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

3809 If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall
3810 recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for
3811 those months when weather conditions may reduce patronage of the golf course, provided that prepared food,
3812 including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked,

3813 or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the
3814 issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed
3815 beverages and food on an annualized basis.

3816 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall
3817 authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the
3818 amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the
3819 licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under
3820 the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic
3821 beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

3822 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
3823 license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises
3824 consumption; however, the licensee shall be required to pay the local fee required for such additional license
3825 pursuant to § 4.1-233.1.

3826 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the
3827 business of providing food and beverages to others for service at private gatherings or at special events, which
3828 shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross
3829 receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings
3830 and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale
3831 of mixed beverages and food.

3832 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in
3833 the business of providing food and beverages to others for service at private gatherings or at special events, not
3834 to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic
3835 beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared
3836 for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall
3837 amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3838 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus,
3839 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the
3840 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of
3841 establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well
3842 as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint
3843 an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store
3844 alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto
3845 airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for
3846 purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which
3847 the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier
3848 and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized
3849 representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee
3850 to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-
3851 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3852 license pursuant to § 4.1-233.1.

3853 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed
3854 beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled
3855 events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities,
3856 seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption.
3857 Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i)
3858 is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in
3859 length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep
3860 and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
3861 by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee
3862 to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-

3863 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3864 license pursuant to § 4.1-233.1.

3865 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert
3866 wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be
3867 combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such
3868 license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or
3869 liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total
3870 annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision
3871 shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises
3872 consumption or in closed containers for off-premises consumption; however, the licensee shall be required to
3873 pay the local fee required for such additional license pursuant to § 4.1-233.1.

3874 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on
3875 the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in
3876 single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession
3877 areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically
3878 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in
3879 closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee
3880 required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

3881 a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i)
3882 is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original
3883 term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic
3884 preservation standards;

3885 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the
3886 City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
3887 or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of
3888 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has
3889 monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and
3890 nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board
3891 regulations for mixed beverage restaurants;

3892 c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro,
3893 provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession
3894 agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons;
3895 and (iii) has been rehabilitated in accordance with historic preservation standards;

3896 d. Persons operating food concessions at any performing arts facility located in the arts and cultural district
3897 of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-
3898 term lease or concession agreement, the original term of which was more than five years; (ii) has been
3899 rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale
3900 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises
3901 that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;
3902 and (iv) has a total capacity in excess of 900 patrons;

3903 e. Persons operating food concessions at any multipurpose theater located in the historical district of the
3904 Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has
3905 a total capacity in excess of 100 patrons;

3906 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility
3907 that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia
3908 Beach;

3909 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility
3910 that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth;
3911 or

3912 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax
3913 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term
3914 lease, management, or concession agreement, the original term of which was more than one year and (ii) has a
3915 total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or
3916 events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by
3917 the Board.

3918 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or
3919 hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed
3920 beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the
3921 licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business
3922 premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant
3923 and catering operations. Such licensee shall meet the separate food qualifications established for the mixed
3924 beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to
3925 subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee
3926 to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-
3927 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3928 license pursuant to § 4.1-233.1.

3929 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining
3930 areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided,
3931 with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the
3932 amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the
3933 consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided
3934 in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For
3935 purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous
3936 to the licensed premises, which may have more than one means of ingress and egress to an adjacent public
3937 thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the
3938 Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to
3939 subdivision A 5 of § 4.1-201.

3940 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3)
3941 of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully
3942 acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and
3943 (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof.
3944 However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3945 license shall be limited to the premises of the museum, regularly occupied and utilized as such.

3946 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption
3947 of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events.
3948 However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee.
3949 The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board
3950 that are regularly occupied and utilized for motor car sporting events.

3951 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association
3952 governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is
3953 a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom
3954 alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the
3955 commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways,
3956 or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is
3957 not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic
3958 beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed
3959 premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic,
3960 or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage
3961 clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle

3962 center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries
3963 of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall
3964 provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3965 ~~title subtitle~~ and Board regulations.

3966 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed
3967 beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be
3968 granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located
3969 on property owned by the United States government or an agency thereof and used as a port of entry to or egress
3970 from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed
3971 on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to
3972 at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this
3973 subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed
3974 premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
3975 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such
3976 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5
3977 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
3978 obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-
3979 premises consumption; however, the licensee shall be required to pay the local fee required for such additional
3980 license pursuant to § 4.1-233.1.

3981 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
3982 association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit
3983 corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant
3984 in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar
3985 facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show
3986 areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or
3987 closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic
3988 interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises
3989 owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one
3990 year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events
3991 and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

3992 B. The Board may grant an on-and-off-premises wine and beer license to the following:

3993 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed
3994 containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in
3995 dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other
3996 designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard
3997 to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of
3998 alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited
3999 service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private
4000 guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-
4001 premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale
4002 of food prepared and consumed on the premises, provided that at least one meal is provided each day by the
4003 hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of
4004 Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any
4005 resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic
4006 beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated
4007 areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more
4008 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining
4009 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
4010 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

4011 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their
4012 on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first
4013 obtained or (ii) in closed containers for off-premises consumption.

4014 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
4015 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the
4016 grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it
4017 appears affirmatively that a substantial public demand for such licensed establishment exists and that public
4018 convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4019 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any
4020 event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession
4021 areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption
4022 or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises
4023 consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired
4024 alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be
4025 granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

4026 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the
4027 performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or
4028 other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic,
4029 or similar disposable containers or in single original metal cans for on-premises consumption. Upon
4030 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages
4031 on the premises in all areas and locations covered by the license. Such licenses may be granted to persons
4032 operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has
4033 seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;
4034 (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany,
4035 Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has
4036 capacity for more than 9,500 persons and is located in Henrico County.

4037 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or
4038 attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional
4039 locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii)
4040 in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption.
4041 Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
4042 beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to
4043 persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities
4044 located in any county operating under the urban county executive form of government or any city that is
4045 completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and
4046 "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility
4047 having in excess of 100,000 square feet of floor space.

4048 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to
4049 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining
4050 areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or
4051 in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve
4052 food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons
4053 operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge
4054 Station and formerly operated as Natural Bridge High School.

4055 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without
4056 meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold,
4057 for on-premises consumption or in closed containers for off-premises consumption. The privileges of this
4058 license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

4059 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption
4060 or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be

4061 granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal
4062 Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about
4063 historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly
4064 occupied and utilized as such.

4065 C. The Board may grant the following off-premises wine and beer licenses:

4066 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,
4067 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined
4068 in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed
4069 containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person
4070 to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however,
4071 no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer
4072 or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and
4073 beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming
4074 public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries,
4075 breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in
4076 such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales
4077 volume requirements established by Board regulation.

4078 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine
4079 or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to
4080 such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises
4081 consumption in accordance with subdivision 6 of § 4.1-200.

4082 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises
4083 for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol
4084 contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

4085 D. The Board may grant the following banquet, special event, and tasting licenses:

4086 1. Per-day event licenses.

4087 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
4088 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms
4089 or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees
4090 who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine,
4091 as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine
4092 may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided
4093 in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes
4094 of this subdivision, when the location named in the original application for a license is outdoors, the application
4095 may also name an alternative location in the event of inclement weather. However, no such license shall be
4096 required of any hotel, restaurant, or club holding a retail wine and beer license.

4097 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge
4098 of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises
4099 consumption in areas approved by the Board on the premises of the place designated in the license. A separate
4100 license shall be required for each day of each special event.

4101 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize
4102 the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests
4103 in areas approved by the Board on the club premises. A separate license shall be required for each day of each
4104 club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a
4105 license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and
4106 serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee
4107 required for such additional license pursuant to § 4.1-233.1.

4108 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the
4109 type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued
4110 for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A

4111 separate license shall be required for each day of each tasting event. No tasting license shall be required for
4112 conduct authorized by § 4.1-201.1.

4113 2. Annual licenses.

4114 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership
4115 organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively
4116 for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas
4117 approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall
4118 authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this
4119 subdivision, when the location named in the original application for a license is outdoors, the application may
4120 also name an alternative location in the event of inclement weather. However, no such license shall be required
4121 of any hotel, restaurant, or club holding a retail wine and beer license.

4122 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services
4123 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages
4124 on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for
4125 a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee
4126 or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer
4127 fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized
4128 by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board
4129 regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency
4130 station, provided such other premises are occupied and under the control of the volunteer fire department or
4131 volunteer emergency medical services agency while the privileges of its license are being exercised.

4132 c. Local special events licenses to a locality, business improvement district, or nonprofit organization,
4133 which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area
4134 designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located
4135 within the area designated by the Board for the special event to sell alcoholic beverages within the permanent
4136 retail location for consumption in the area designated for the special event, including sidewalks and the premises
4137 of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining
4138 the designated area for the special event, the Board shall consult with the locality. Local special events licensees
4139 shall be limited to 16 special events per year, and the duration of any special event shall not exceed three
4140 consecutive days. Such limitations on the number of special events that may be held shall not apply during the
4141 effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to
4142 meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however,
4143 local special events licensees shall be subject to all other applicable provisions of this ~~title~~ subtitle and Board
4144 regulations and shall provide notice to the Board regarding the days and times during which the privileges of
4145 the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees
4146 located within the designated area may be consumed at the special event, and such alcoholic beverages shall be
4147 contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail
4148 on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold
4149 or charged for in any way by the local special events licensee. The local special events licensee shall post
4150 appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical
4151 barriers shall be required for this purpose. The local special events licensee shall provide adequate security for
4152 the special event to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board regulations.

4153 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or
4154 charitable membership organizations that are exempt from state and federal taxation and in charge of banquets
4155 conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed
4156 beverages for on-premises consumption in areas approved by the Board on the premises of the place designated
4157 in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
4158 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
4159 license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to
4160 pay the local fee required for such additional license pursuant to § 4.1-233.1.

4161 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and
4162 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic
4163 beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages
4164 shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to
4165 the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and
4166 (ii) exercised on no more than four calendar days per year.

4167 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee
4168 participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the
4169 premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be
4170 sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than
4171 two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this
4172 license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised
4173 on no more than 12 calendar days per year.

4174 E. The Board may grant a marketplace license to persons operating a business enterprise of which the
4175 primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
4176 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed
4177 by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce
4178 glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine
4179 or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business
4180 enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized
4181 experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any
4182 other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises
4183 at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the
4184 Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain
4185 purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board
4186 shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of
4187 operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed
4188 necessary by the Board to protect the public health, safety, and welfare.

4189 F. The Board may grant the following shipper, bottler, and related licenses:

4190 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

4191 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the
4192 Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed
4193 containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises
4194 consumption. Such licensee shall not be required to comply with the monthly food sale requirement established
4195 by Board regulations.

4196 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of
4197 beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i)
4198 wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United
4199 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
4200 for resale outside the Commonwealth.

4201 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place
4202 of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by
4203 holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick,
4204 pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No
4205 wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under
4206 common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business
4207 for which any fulfillment warehouse license is issued.

4208 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under
4209 the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business
4210 located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or

4211 beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully
4212 sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the
4213 licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal
4214 licensees may also accept payment on behalf of the shipper.

4215 **§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.**

4216 The Board may grant the following licenses relating to wine:

4217 1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship
4218 the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so
4219 manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
4220 outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling
4221 equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which
4222 shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking
4223 facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded
4224 warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail on the
4225 premises described in the winery license for on-premises consumption or in closed containers for off-premises
4226 consumption, provided that such wine is manufactured on the licensed premises.

4227 2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the
4228 licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from
4229 one or more premises identified in the license, in accordance with Board regulations, in closed containers, to
4230 (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale
4231 outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners
4232 of boats registered under the laws of the United States sailing for ports of call of a foreign country or another
4233 state.

4234 No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who
4235 does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and
4236 purchases wine for resale pursuant to the privileges of such wine importer's license.

4237 3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to
4238 sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the
4239 Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the
4240 Commonwealth for resale outside the Commonwealth.

4241 4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee
4242 to sell wine at the place of business designated in the winery license, in closed containers, for off-premises
4243 consumption.

4244 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or
4245 less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed
4246 containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose
4247 of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive
4248 deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations,
4249 to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the
4250 Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with
4251 Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits
4252 issued by the Board. For the purposes of this ~~title~~ subtitle, a farm winery license shall be designated either as a
4253 Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery
4254 may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee
4255 operating a contract winemaking facility.

4256 Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in
4257 the licenses, which may include no more than five additional retail establishments of the licensee. Wine may
4258 be sold at these business places for on-premises consumption and in closed containers for off-premises
4259 consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises
4260 consumption at these business places.

4261 6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth
4262 to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in
4263 the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not
4264 be required to comply with the monthly food sale requirement established by Board regulations.

4265 **§ 4.1-207.1. (Repealed effective July 1, 2021) Restricted wholesale wine licenses.**

4266 The Board may grant a wholesale wine license to a nonprofit, nonstock corporation created in accordance
4267 with subdivision B 2 of § 3.2-102, which shall authorize the licensee to provide wholesale wine distribution
4268 services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a
4269 winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall
4270 provide such distribution services in accordance with the terms of a written agreement approved by the
4271 corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this
4272 ~~title subtitle~~ and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all
4273 laws and regulations governing wholesale wine licenses granted under subdivision 2 of § 4.1-207.

4274 **§ 4.1-208. (Repealed effective July 1, 2021) Beer licenses.**

4275 A. The Board may grant the following licenses relating to beer:

4276 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship
4277 the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to
4278 sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or
4279 amusement park owned and operated by the brewery or a parent, subsidiary or a company under common
4280 control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common
4281 control of such brewery contiguous to such premises, or in a development contiguous to such premises owned
4282 and operated by such brewery or a parent, subsidiary or a company under common control of such brewery;
4283 and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also
4284 authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the
4285 brewery license for on-premises consumption and in closed containers for off-premises consumption, provided
4286 that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is
4287 manufactured on the licensed premises.

4288 Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for
4289 and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such
4290 individuals of beer products, within a theme or amusement park located upon the premises occupied by such
4291 brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such
4292 premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's
4293 products to individuals visiting the licensed premises, provided that such samples shall be provided only to
4294 individuals for consumption on the premises of such facility or licensed premises and only to individuals to
4295 whom such products may be lawfully sold.

4296 2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar
4297 year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and
4298 owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains,
4299 hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises
4300 shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops,
4301 or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises
4302 of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However,
4303 the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also
4304 approve other portions of the farm to be included as part of the licensed premises. For purposes of this
4305 subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b)
4306 land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned
4307 agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned
4308 "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

4309 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title subtitle~~ except as
4310 otherwise provided in this subdivision.

4311 3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of
4312 beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i)
4313 wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United
4314 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
4315 for resale outside the Commonwealth.

4316 4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
4317 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license,
4318 in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such
4319 beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United
4320 States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth
4321 for resale outside the Commonwealth.

4322 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who
4323 does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and
4324 purchases beer for resale pursuant to the privileges of such beer importer's license.

4325 5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to
4326 sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers,
4327 to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

4328 6. Retail on-premises beer licenses to:

4329 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals,
4330 only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and
4331 other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of
4332 this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the
4333 licensed premises, which may have more than one means of ingress and egress to an adjacent public
4334 thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the
4335 Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to
4336 subdivision A 5 of § 4.1-201.

4337 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to
4338 sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-
4339 premises consumption when carrying passengers.

4340 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell
4341 beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying
4342 passengers.

4343 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town,
4344 which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license
4345 shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment
4346 exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4347 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the
4348 licensee to sell beer, in paper, plastic, or similar disposable containers or in single original metal cans, during
4349 the performance of professional sporting exhibitions, events or performances immediately subsequent thereto,
4350 to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated
4351 by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization
4352 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
4353 premises in all areas and locations covered by the license.

4354 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility
4355 which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or
4356 Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any
4357 event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all
4358 seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon
4359 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages
4360 on the premises in all areas and locations covered by the license.

4361 g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
4362 facilities located in any county operating under the urban county executive form of government or any city
4363 which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event,
4364 in paper, plastic or similar disposable containers or in single original metal cans, to patrons or attendees within
4365 all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations
4366 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee,
4367 any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas
4368 and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and
4369 "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility
4370 having in excess of 100,000 square feet of floor space.

4371 h. A nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in
4372 the Town of Front Royal, and dedicated to educating the consuming public about historic beer products, which
4373 shall authorize the licensee to sell beer for on-premises consumption in areas approved by the Board. The
4374 privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

4375 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for
4376 off-premises consumption.

4377 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the
4378 licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall
4379 include growlers and other reusable containers, for off-premises consumption.

4380 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall
4381 accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the
4382 licensee to sell beer in closed containers for off-premises consumption.

4383 10. Internet beer retailer license, which shall authorize persons located within or outside the Commonwealth
4384 to sell and ship beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in
4385 the Commonwealth to whom beer may be lawfully sold for off-premises consumption. Such licensee shall not
4386 be required to comply with the monthly food sale requirement established by Board regulations.

4387 B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the
4388 Board in accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an
4389 agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery
4390 use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this
4391 section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016,
4392 whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located
4393 on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and
4394 the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or
4395 limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new
4396 building or structure so long as specifically approved by the locality by special exception. All such licensees
4397 shall comply with the requirements of this ~~title~~ *subsubtitle* and Board regulations for renewal of such license or the
4398 issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or
4399 after July 1, 2016.

4400 **§ 4.1-212. (Effective until July 1, 2021) Permits required in certain instances.**

4401 A. The Board may grant the following permits which shall authorize:

4402 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer,
4403 or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

4404 2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic
4405 beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee
4406 in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

4407 3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to
4408 sell and which shall be used for culinary purposes only.

4409 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
4410 Commonwealth, except that no permit shall be required for any person shipping or transporting into the

4411 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
4412 residence to the Commonwealth in accordance with § 4.1-310.

4413 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

4414 6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored
4415 in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside
4416 of the Commonwealth.

4417 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the
4418 Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

4419 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery
4420 in accordance with subsection C of § 4.1-132.

4421 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or
4422 qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased
4423 or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

4424 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be
4425 a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation
4426 sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal
4427 representative, receiver or other officer acting under authority of a court having jurisdiction in the
4428 Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform
4429 Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic
4430 beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth
4431 and upon such conditions or restrictions as the Board may prescribe.

4432 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or
4433 property of a person licensed by the Board and who has become lawfully entitled to the possession of the
4434 licensed premises to continue to operate the establishment to the same extent as a person holding such licenses
4435 for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be
4436 temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined
4437 by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

4438 12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-
4439 premises consumption.

4440 13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond
4441 in warehouses located in the Commonwealth.

4442 14. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses
4443 located in the Commonwealth.

4444 15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an
4445 application for a permit in which the applicant represents (i) that he or she is under contract to conduct such
4446 tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such
4447 contract grants to the applicant the authority to act as the authorized representative of such manufacturer or
4448 wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named
4449 in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit
4450 issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by
4451 the Board in accordance with § 4.1-229.

4452 16. Any person who, through contract, lease, concession, license, management or similar agreement
4453 (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a
4454 person licensed by the Board to continue to operate the establishment to the same extent as a person holding
4455 such licenses, provided such person has made application to the Board for a license at the same premises. The
4456 permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the
4457 Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by
4458 the Board pending the completion of the processing of the permittee's license application. No permit shall be
4459 issued without the written consent of the previous licensee. No permit shall be issued under the provisions of
4460 this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation

4461 of this ~~title~~ subtitle or any Board regulation, unless the permittee agrees to assume the liability of the previous
4462 licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to
4463 the effective date of the contract, in which case the permit when issued shall become effective on the effective
4464 date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance
4465 with the provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held
4466 liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or omissions
4467 of, the permittee.

4468 17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals
4469 for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct
4470 tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees
4471 to the licensee.

4472 18. Any tour company guiding individuals for compensation on a walking tour to one or more
4473 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee
4474 from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for
4475 any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to
4476 the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour
4477 company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than
4478 three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all
4479 participants are persons to whom alcoholic beverages may be lawfully sold.

4480 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof
4481 which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event
4482 of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

4483 **§ 4.1-212. (Effective July 1, 2021) Permits required in certain instances.**

4484 A. The Board may grant the following permits which shall authorize:

4485 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer,
4486 or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

4487 2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic
4488 beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee
4489 in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

4490 3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell
4491 and which shall be used for culinary purposes only.

4492 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
4493 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
4494 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
4495 residence to the Commonwealth in accordance with § 4.1-310.

4496 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

4497 6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored
4498 in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside
4499 of the Commonwealth.

4500 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the
4501 Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

4502 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery
4503 in accordance with subsection C of § 4.1-132.

4504 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or
4505 qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased
4506 or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

4507 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be
4508 a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation
4509 sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal
4510 representative, receiver or other officer acting under authority of a court having jurisdiction in the

4511 Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform
4512 Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic
4513 beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth
4514 and upon such conditions or restrictions as the Board may prescribe.

4515 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or
4516 property of a person licensed by the Board and who has become lawfully entitled to the possession of the
4517 licensed premises to continue to operate the establishment to the same extent as a person holding such licenses
4518 for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be
4519 temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined
4520 by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

4521 12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond
4522 in warehouses located in the Commonwealth.

4523 13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses
4524 located in the Commonwealth.

4525 14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an
4526 application for a permit in which the applicant represents (i) that he or she is under contract to conduct such
4527 tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such
4528 contract grants to the applicant the authority to act as the authorized representative of such manufacturer or
4529 wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named
4530 in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit
4531 issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by
4532 the Board in accordance with § 4.1-229.

4533 15. Any person who, through contract, lease, concession, license, management or similar agreement
4534 (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a
4535 person licensed by the Board to continue to operate the establishment to the same extent as a person holding
4536 such licenses, provided such person has made application to the Board for a license at the same premises. The
4537 permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the
4538 Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by
4539 the Board pending the completion of the processing of the permittee's license application. No permit shall be
4540 issued without the written consent of the previous licensee. No permit shall be issued under the provisions of
4541 this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation
4542 of this ~~title~~ subtitle or any Board regulation, unless the permittee agrees to assume the liability of the previous
4543 licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to
4544 the effective date of the contract, in which case the permit when issued shall become effective on the effective
4545 date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance
4546 with the provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held
4547 liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or omissions
4548 of, the permittee.

4549 16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals
4550 for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct
4551 tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees
4552 to the licensee.

4553 17. Any tour company guiding individuals for compensation on a walking tour to one or more
4554 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee
4555 from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for
4556 any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to
4557 the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour
4558 company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than
4559 three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all
4560 participants are persons to whom alcoholic beverages may be lawfully sold.

4561 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof
 4562 which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event
 4563 of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

4564 **§ 4.1-213. Manufacture and sale of cider.**

4565 A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any
 4566 wholesale wine licensee, and (iii) persons outside the Commonwealth.

4567 B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship
 4568 the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail
 4569 licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth
 4570 for resale outside the Commonwealth.

4571 C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the
 4572 same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other
 4573 alcoholic beverages.

4574 D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply
 4575 with federal regulations for wine or beer, provided such containers are labeled in accordance with Board
 4576 regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that
 4577 comply with federal regulations for wine, provided such containers are labeled in accordance with Board
 4578 regulations.

4579 E. No additional license fees shall be charged for the privilege of handling cider.

4580 F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both,
 4581 in the Commonwealth.

4582 G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of
 4583 cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and
 4584 to ensure that the markup required to be paid will be collected.

4585 H. For the purposes of this section:

4586 "Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or
 4587 during fermentation.

4588 "Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar
 4589 content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization
 4590 or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. Cider shall be
 4591 treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise provided in this ~~title~~ subtitle or Board
 4592 regulations.

4593 I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person
 4594 be denied the privilege of manufacturing and selling sweet cider.

4595 **§ 4.1-215. (Effective until July 1, 2021) Limitation on manufacturers, bottlers and wholesalers;
 4596 exemptions.**

4597 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall
 4598 be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the
 4599 Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership
 4600 or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or
 4601 wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another
 4602 subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v)
 4603 manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which
 4604 has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler
 4605 or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such
 4606 manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or
 4607 otherwise.

4608 2. Notwithstanding any other provision of this ~~title~~ subtitle:

4609 a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain a banquet
 4610 license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet

4611 license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and
4612 educating the consuming public about malt beverage products. Such manufacturer shall be limited to eight
4613 banquet licenses for such events per year without regard to the number of breweries owned or operated by such
4614 manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where
4615 the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for
4616 the event; or

4617 b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as
4618 provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is
4619 obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating
4620 the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for
4621 such events per year without regard to the number of wineries owned or operated by such manufacturer or by
4622 any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on
4623 no more than three consecutive days, a manufacturer need only obtain one such license for the event.

4624 3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether
4625 licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in
4626 subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (i) at a place approved
4627 by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the
4628 manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for
4629 such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer
4630 need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell
4631 or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas
4632 at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered,
4633 unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces
4634 of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this
4635 paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

4636 B. This section shall not apply to:

- 4637 1. Corporations operating dining cars, buffet cars, club cars or boats;
- 4638 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
- 4639 3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;
- 4640 4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish,
4641 directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet
4642 license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from
4643 sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers;
- 4644 5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1; or
- 4645 6. One out-of-state winery, not under common control or ownership with any other winery, that is under
4646 common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine
4647 produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is
4648 offered for sale to consumers.

4649 C. The General Assembly finds that it is necessary and proper to require a separation between
4650 manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic
4651 beverages in order to prevent suppliers from dominating local markets through vertical integration and to
4652 prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The
4653 exceptions established by this section to the general prohibition against tied interests shall be limited to their
4654 express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

4655 **§ 4.1-215. (Effective July 1, 2021) Limitation on manufacturers, bottlers, and wholesalers;**
4656 **exemptions.**

4657 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall
4658 be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the
4659 Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership
4660 or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or

4661 wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another
4662 subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v)
4663 manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which
4664 has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler,
4665 or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such
4666 manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or
4667 otherwise.

4668 2. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of wine or malt beverages, or
4669 two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a
4670 banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a
4671 banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of
4672 featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall
4673 be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to
4674 the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or
4675 company under common control with such manufacturer. Where the event occurs on no more than three
4676 consecutive days, a manufacturer need only obtain one such license for the event.

4677 3. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of distilled spirits, whether
4678 licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in
4679 subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place
4680 approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public
4681 about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet
4682 licenses for such special events per year. Where the event occurs on no more than three consecutive days, a
4683 manufacturer need only obtain one such license for the event. Such banquet license shall authorize the
4684 manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold
4685 in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per
4686 spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one
4687 and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per
4688 day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed
4689 beverage.

4690 B. This section shall not apply to:

4691 1. Corporations operating dining cars, buffet cars, club cars, or boats;

4692 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

4693 3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;

4694 4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish,
4695 directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet
4696 license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from
4697 sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;

4698 5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-206.3 or
4699 § 4.1-209.1 or 4.1-212.1; or

4700 6. One out-of-state winery, not under common control or ownership with any other winery, that is under
4701 common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine
4702 produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is
4703 offered for sale to consumers.

4704 C. The General Assembly finds that it is necessary and proper to require a separation between
4705 manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic
4706 beverages in order to prevent suppliers from dominating local markets through vertical integration and to
4707 prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The
4708 exceptions established by this section to the general prohibition against tied interests shall be limited to their
4709 express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

4710 § 4.1-216. (Effective until July 1, 2021) Further limitations on manufacturers, bottlers, importers,
4711 brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.

4712 A. As used in this section:

4713 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly
4714 engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and
4715 arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic
4716 beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~
4717 *subtitle*.

4718 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or
4719 directors of any such manufacturer, bottler, importer, broker or wholesaler.

4720 B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of
4721 alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest,
4722 direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the
4723 business of a retail licensee is conducted.

4724 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler
4725 does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail
4726 licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment
4727 alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

4728 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock
4729 of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a
4730 financial interest, direct or indirect, in the business or the premises of the retail licensee.

4731 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing
4732 corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by
4733 providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

4734 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may
4735 provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision
4736 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed
4737 new owner to form a Virginia limited partnership in which the new owner is the general partner and the
4738 financing corporation is a limited partner. If the general partner defaults on any financial obligation to the
4739 limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner
4740 defaults on its obligation to pay principal and interest when due to the financing corporation as specifically
4741 defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to
4742 the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written
4743 notice has been given to the Board within two business days after taking title, the wholesale licensee may be
4744 managed and operated by such financing corporation pursuant to the existing wholesale license for a period of
4745 time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or
4746 before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale
4747 licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
4748 terminated. The financing corporation may not participate in financing the transfer of ownership to the new
4749 owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the
4750 original financing transaction; except where a transfer takes place before the expiration of the eighth full year
4751 following the effective date of the original financing transaction in which case the financing corporation may
4752 finance such transfer as long as the new owner is required to return such debt or equity capital within the
4753 originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage
4754 and operate the business of, the wholesale licensee only once during such eight-year period.

4755 b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist
4756 in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an
4757 application for a wholesale license in the name of the proposed new owner to the Board.

4758 The Board shall be provided with all documents that pertain to the transaction at the time of the license
4759 application and shall ensure that the application complies with all requirements of law pertaining to the issuance

4760 of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby
4761 take a limited partnership interest in the applicant entity, the financing corporation shall not be required to
4762 comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition
4763 to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the
4764 following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any
4765 debt financing which the financing corporation proposes to provide are substantially the same as those available
4766 in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms
4767 of any proposed equity financing transaction are such that future profits of the applicant's business shall be
4768 distributed annually to the financing corporation in direct proportion to its percentage of ownership interest
4769 received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide
4770 equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest
4771 and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or
4772 equity capital to the financing corporation not later than the end of the eighth full year following the effective
4773 date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

4774 Once the Board has issued a wholesale license pursuant to an application filed in accordance with this
4775 subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject
4776 to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the
4777 licensee to resubmit certifications and documentation.

4778 c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity
4779 financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may
4780 do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following
4781 circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale
4782 licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory,
4783 other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the
4784 financing corporation may take title to any assets pledged to secure such debt but may not take title to the
4785 business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be
4786 supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing
4787 wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same
4788 as those available in the financial markets to other wholesale licensees in competition with the wholesale
4789 licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and
4790 provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

4791 Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to
4792 issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners
4793 thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4794 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees
4795 may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate
4796 or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of
4797 subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of
4798 operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of
4799 alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such
4800 retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced
4801 to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated
4802 by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary
4803 course of business.

4804 5. Notwithstanding any provision of this section, including but not limited to those provisions whereby
4805 certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or
4806 wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail
4807 licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises
4808 on which the retail licensee's business is conducted.

4809 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a
4810 historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the
4811 winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes
4812 and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for
4813 royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and
4814 trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been
4815 approved by the Board.

4816 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from
4817 income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the
4818 preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least
4819 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns
4820 not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the
4821 Board.

4822 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler,
4823 importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell,
4824 rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any
4825 retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of
4826 value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii)
4827 advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section
4828 or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its
4829 establishment alcoholic beverages of other manufacturers or wholesalers.

4830 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers
4831 selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic
4832 beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits
4833 owned by or ceded to the United States of America.

4834 **§ 4.1-216. (Effective July 1, 2021) Further limitations on manufacturers, bottlers, importers, brokers**
4835 **or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.**

4836 A. As used in this section:

4837 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly
4838 engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and
4839 arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic
4840 beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~
4841 *subtitle*.

4842 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or
4843 directors of any such manufacturer, bottler, importer, broker or wholesaler.

4844 B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of
4845 alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest,
4846 direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the
4847 business of a retail licensee is conducted.

4848 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler
4849 does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail
4850 licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment
4851 alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

4852 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock
4853 of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a
4854 financial interest, direct or indirect, in the business or the premises of the retail licensee.

4855 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing
4856 corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by
4857 providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

4858 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may
4859 provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision
4860 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed
4861 new owner to form a Virginia limited partnership in which the new owner is the general partner and the
4862 financing corporation is a limited partner. If the general partner defaults on any financial obligation to the
4863 limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner
4864 defaults on its obligation to pay principal and interest when due to the financing corporation as specifically
4865 defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to
4866 the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written
4867 notice has been given to the Board within two business days after taking title, the wholesale licensee may be
4868 managed and operated by such financing corporation pursuant to the existing wholesale license for a period of
4869 time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or
4870 before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale
4871 licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
4872 terminated. The financing corporation may not participate in financing the transfer of ownership to the new
4873 owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the
4874 original financing transaction; except where a transfer takes place before the expiration of the eighth full year
4875 following the effective date of the original financing transaction in which case the financing corporation may
4876 finance such transfer as long as the new owner is required to return such debt or equity capital within the
4877 originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage
4878 and operate the business of, the wholesale licensee only once during such eight-year period.

4879 b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist
4880 in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an
4881 application for a wholesale license in the name of the proposed new owner to the Board.

4882 The Board shall be provided with all documents that pertain to the transaction at the time of the license
4883 application and shall ensure that the application complies with all requirements of law pertaining to the issuance
4884 of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby
4885 take a limited partnership interest in the applicant entity, the financing corporation shall not be required to
4886 comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition
4887 to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the
4888 following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any
4889 debt financing which the financing corporation proposes to provide are substantially the same as those available
4890 in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms
4891 of any proposed equity financing transaction are such that future profits of the applicant's business shall be
4892 distributed annually to the financing corporation in direct proportion to its percentage of ownership interest
4893 received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide
4894 equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest
4895 and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or
4896 equity capital to the financing corporation not later than the end of the eighth full year following the effective
4897 date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

4898 Once the Board has issued a wholesale license pursuant to an application filed in accordance with this
4899 subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject
4900 to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the
4901 licensee to resubmit certifications and documentation.

4902 c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity
4903 financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may
4904 do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following
4905 circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale
4906 licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory,
4907 other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the

4908 financing corporation may take title to any assets pledged to secure such debt but may not take title to the
4909 business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be
4910 supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing
4911 wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same
4912 as those available in the financial markets to other wholesale licensees in competition with the wholesale
4913 licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and
4914 provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

4915 Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to
4916 issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners
4917 thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4918 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees
4919 may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate
4920 or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of
4921 subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of
4922 operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of
4923 alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such
4924 retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced
4925 to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated
4926 by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary
4927 course of business.

4928 5. Notwithstanding any provision of this section, including but not limited to those provisions whereby
4929 certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or
4930 wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail
4931 licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises
4932 on which the retail licensee's business is conducted.

4933 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a
4934 historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the
4935 winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes
4936 and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for
4937 royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and
4938 trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been
4939 approved by the Board.

4940 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from
4941 income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the
4942 preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least
4943 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns
4944 not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the
4945 Board.

4946 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler,
4947 importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell,
4948 rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any
4949 retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of
4950 value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii)
4951 advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section
4952 or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its
4953 establishment alcoholic beverages of other manufacturers or wholesalers.

4954 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers
4955 selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic
4956 beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits
4957 owned by or ceded to the United States of America.

4958 The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

4959 **§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.**

4960 A. As used in this section:

4961 "Alcoholic beverage advertising material" or "advertising material" means any item, other than an
4962 illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used
4963 to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which
4964 otherwise complies with Board regulations.

4965 "Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a
4966 manufacturer has authorized to engage in a business consisting in whole or in part of the sale and distribution
4967 of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

4968 "Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a
4969 brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and
4970 beer licensees in Virginia or, in the case of spirits, to the Board.

4971 B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a
4972 manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a
4973 retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or
4974 plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

4975 C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a
4976 retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

4977 1. The wholesale value of the advertising material does not exceed \$250 per item, and

4978 2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale
4979 wine or beer licensee.

4980 A retail licensee shall retain for at least two years a record of its procurement of, including any payments
4981 for, such advertising materials along with an invoice or sales ticket containing a description of the item so
4982 purchased or otherwise procured.

4983 D. Except as otherwise provided in this ~~title~~ *subtitle*, a retail licensee shall not display in the interior of its
4984 licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully
4985 obtained and displayed in accordance with this section or Board regulation.

4986 E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board
4987 regulations in effect on January 1, 2007.

4988 **§ 4.1-222. Conditions under which Board may refuse to grant licenses.**

4989 The Board may refuse to grant any license if it has reasonable cause to believe that:

4990 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an
4991 association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the applicant
4992 is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the
4993 applicant is a limited liability company, any member-manager or any member owning 10 percent or more of
4994 the membership interest of the limited liability company:

4995 a. Is not 21 years of age or older;

4996 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the
4997 laws of any state, or of the United States;

4998 c. Has been convicted, within the five years immediately preceding the date of the application for such
4999 license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of
5000 alcoholic beverages;

5001 d. Is not a person of good moral character and repute;

5002 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership
5003 interests in the business which have not been disclosed;

5004 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed
5005 to be licensed;

5006 g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

- 5007 h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack
5008 of respect for law and order;
- 5009 i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;
- 5010 j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;
- 5011 k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;
- 5012 l. Has misrepresented a material fact in applying to the Board for a license;
- 5013 m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or
5014 governmental agency or authority, by making or filing any report, document or tax return required by statute or
5015 regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or
5016 attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority,
5017 by making or maintaining business records required by statute or regulation which are false and fraudulent;
- 5018 n. Is violating or allowing the violation of any provision of this ~~title~~ subtitle in his establishment at the time
5019 his application for a license is pending;
- 5020 o. Is a police officer with police authority in the political subdivision within which the establishment
5021 designated in the application is located;
- 5022 p. Is physically unable to carry on the business for which the application for a license is filed or has been
5023 adjudicated incapacitated; or
- 5024 q. Is a member, agent or employee of the Board.
- 5025 2. The place to be occupied by the applicant:
- 5026 a. Does not conform to the requirements of the governing body of the county, city or town in which such
5027 place is located with respect to sanitation, health, construction or equipment, or to any similar requirements
5028 established by the laws of the Commonwealth or by Board regulation;
- 5029 b. Is so located that granting a license and operation thereunder by the applicant would result in violations
5030 of this ~~title~~ subtitle, Board regulations, or violation of the laws of the Commonwealth or local ordinances
5031 relating to peace and good order;
- 5032 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or an
5033 institution of higher education; public or private playground or other similar recreational facility; or any state,
5034 local, or federal government-operated facility, that the operation of such place under such license will adversely
5035 affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;
- 5036 d. Is so located with respect to any residence or residential area that the operation of such place under such
5037 license will adversely affect real property values or substantially interfere with the usual quietude and tranquility
5038 of such residence or residential area; or
- 5039 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement
5040 officers and special agents of the Board are prevented from ready access to and reasonable observation of any
5041 room or area within which alcoholic beverages are to be sold or consumed.
- 5042 3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the
5043 interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i)
5044 character of, population of, the number of similar licenses and the number of all licenses existent in the
5045 particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may
5046 have on such county, city, town or neighborhood in conforming with the purposes of this ~~title~~ subtitle; and (iii)
5047 objections, if any, which may have been filed by a local governing body or local residents.
- 5048 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any political
5049 subdivision thereof, which warrants refusal by the Board to grant any license.
- 5050 5. The Board is not authorized under this chapter to grant such license.
- 5051 **§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**
- 5052 A. The action of the Board in granting or in refusing to grant any license shall be subject to review in
5053 accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections B and
5054 C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner
5055 and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

5056 B. The Board may refuse a hearing on any application for the granting of any retail alcoholic beverage or
5057 mixed beverage license, including a banquet license, provided such:

- 5058 1. License for the applicant has been refused or revoked within a period of ~~twelve~~ 12 months;
5059 2. License for any premises has been refused or revoked at that location within a period of ~~twelve~~ 12 months;
5060 3. Applicant, within a period of ~~twelve~~ 12 months immediately preceding, has permitted a license granted
5061 by the Board to expire for nonpayment of license tax, and at the time of expiration of such license, there was a
5062 pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a
5063 violation of this ~~title~~ subtitle; or
5064 4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same location
5065 within ~~twelve~~ 12 months of the date of the issuance of the restricted license.

5066 C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of
5067 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the
5068 Board may refuse a hearing on an application for a new license until after the date on which the suspension
5069 period would have been executed had the license not have been permitted to expire.

5070 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

5071 The Board may suspend or revoke any license other than a brewery license, in which case the Board may
5072 impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

5073 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an
5074 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee
5075 is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the
5076 licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the
5077 membership interest of the limited liability company:

5078 a. Has misrepresented a material fact in applying to the Board for such license;
5079 b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227,
5080 has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county,
5081 city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture,
5082 transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-
5083 300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act
5084 (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of
5085 the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by
5086 the Board;

5087 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under
5088 the laws of any state, or of the United States;

5089 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other
5090 persons have ownership interests in the business which have not been disclosed;

5091 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted
5092 under the license granted by the Board;

5093 f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed
5094 premises;

5095 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a
5096 meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill
5097 repute, or has allowed any form of illegal gambling to take place upon such premises;

5098 h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other
5099 than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any
5100 crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other
5101 state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic
5102 beverages;

5103 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect
5104 for law and order;

- 5105 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he
5106 knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has
5107 allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed
5108 premises;
- 5109 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as
5110 provided under this ~~title~~ subtitle;
- 5111 l. Is physically unable to carry on the business conducted under such license or has been adjudicated
5112 incapacitated;
- 5113 m. Has allowed any obscene literature, pictures or materials upon the licensed premises;
- 5114 n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;
- 5115 o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed
5116 any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled
5117 substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are
5118 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
5119 Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit
5120 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
5121 provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business
5122 that facilitates the commission of any of the offenses set forth herein;
- 5123 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately
5124 adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property
5125 immediately adjacent to the licensed premises from becoming a place where patrons of the establishment
5126 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
5127 (§ 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
5128 (§ 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
5129 (§ 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 (§
5130 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
5131 frequent and serious as to reasonably be deemed a continuing threat to the public safety; or
- 5132 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily
5133 injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately
5134 adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property
5135 immediately adjacent to the licensed premises.
- 5136 2. The place occupied by the licensee:
- 5137 a. Does not conform to the requirements of the governing body of the county, city or town in which such
5138 establishment is located, with respect to sanitation, health, construction or equipment, or to any similar
5139 requirements established by the laws of the Commonwealth or by Board regulations;
- 5140 b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-258; or
- 5141 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
5142 prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly
5143 used or distributed. The Board may consider the general reputation in the community of such establishment in
5144 addition to any other competent evidence in making such determination.
- 5145 3. The licensee or any employee of the licensee discriminated against any member of the armed forces of
5146 the United States by prices charged or otherwise.
- 5147 4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted
5148 of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee
5149 allowed such conduct to occur.
- 5150 5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the
5151 facts been known.
- 5152 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties
5153 or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified
5154 by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding

5155 amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect
5156 to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same
5157 locality to settle the outstanding liability.

5158 7. Any other cause authorized by this ~~title~~ subtitle.

5159 **§ 4.1-227. (Effective until July 1, 2021) Suspension or revocation of licenses; notice and hearings;**
5160 **imposition of penalties.**

5161 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee
5162 or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to
5163 the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et
5164 seq.).

5165 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit
5166 the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or
5167 copies thereof or the substance of any oral statements made by the licensee or a previous or present employee
5168 of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which
5169 the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and
5170 (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof,
5171 that are within the possession, custody, or control of the Board and upon which the Board intends to rely as
5172 evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for
5173 the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-
5174 103 shall provide for the production of the documents sought within ~~ten~~ 10 working days, notwithstanding
5175 anything to the contrary in § 4.1-103.

5176 If the Board fails to provide for inspection or copying under this section for the licensee after a written
5177 request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully
5178 been entitled to inspect or copy under this section.

5179 The action of the Board in suspending or revoking any license or in imposing a civil penalty against the
5180 holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process
5181 Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in
5182 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of
5183 the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,
5184 stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor
5185 injunction shall lie in any such case.

5186 B. In suspending any license the Board may impose, as a condition precedent to the removal of such
5187 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
5188 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and
5189 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding
5190 \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or
5191 \$5,000 for the second violation occurring within five years immediately preceding the date of the second
5192 violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing
5193 alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted
5194 persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five
5195 years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five
5196 years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof,
5197 or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement
5198 that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and
5199 in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

5200 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his
5201 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent
5202 agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the
5203 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an
5204 appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed

5205 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within
 5206 the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the
 5207 suspension as applicable, or (4) proceed to a hearing.

5208 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay
 5209 the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges
 5210 of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the
 5211 second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any
 5212 suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation
 5213 shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats
 5214 registered under the laws of the United States sailing for ports of call of a foreign country or another state, and
 5215 to persons outside the Commonwealth.

5216 E. The Board shall, by regulation or written order:

5217 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial
 5218 hearing;

5219 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
 5220 suspension may be accepted for a first offense occurring within three years immediately preceding the date of
 5221 the violation;

5222 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty
 5223 for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or
 5224 seller training certified in advance by the Board;

5225 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license
 5226 and the civil charge acceptable in lieu of such suspension; and

5227 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee
 5228 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall
 5229 be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board
 5230 regulations.

5231 **§ 4.1-227. (Effective July 1, 2021) Suspension or revocation of licenses; notice and hearings;**
 5232 **imposition of penalties.**

5233 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee
 5234 or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to
 5235 the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et
 5236 seq.).

5237 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit
 5238 the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or
 5239 copies thereof or the substance of any oral statements made by the licensee or a previous or present employee
 5240 of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which
 5241 the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and
 5242 (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof,
 5243 that are within the possession, custody, or control of the Board and upon which the Board intends to rely as
 5244 evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for
 5245 the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-
 5246 103 shall provide for the production of the documents sought within ~~ten~~ 10 working days, notwithstanding
 5247 anything to the contrary in § 4.1-103.

5248 If the Board fails to provide for inspection or copying under this section for the licensee after a written
 5249 request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully
 5250 been entitled to inspect or copy under this section.

5251 The action of the Board in suspending or revoking any license or in imposing a civil penalty against the
 5252 holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process
 5253 Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in
 5254 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of

5255 the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,
5256 stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor
5257 injunction shall lie in any such case.

5258 B. In suspending any license the Board may impose, as a condition precedent to the removal of such
5259 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
5260 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and
5261 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding
5262 \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or
5263 \$5,000 for the second violation occurring within five years immediately preceding the date of the second
5264 violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing
5265 alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted
5266 persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five
5267 years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five
5268 years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof,
5269 or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not
5270 exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in
5271 addition to any suspension or civil penalty incurred.

5272 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his
5273 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent
5274 agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or applicant of the
5275 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an
5276 appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed
5277 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within
5278 the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the
5279 suspension as applicable, or (4) proceed to a hearing.

5280 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay
5281 the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges
5282 of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the
5283 second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any
5284 suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation
5285 shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats
5286 registered under the laws of the United States sailing for ports of call of a foreign country or another state, and
5287 to persons outside the Commonwealth.

5288 E. The Board shall, by regulation or written order:

5289 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial
5290 hearing;

5291 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
5292 suspension may be accepted for a first offense occurring within three years immediately preceding the date of
5293 the violation;

5294 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty
5295 for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or
5296 seller training certified in advance by the Board;

5297 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license
5298 and the civil charge acceptable in lieu of such suspension; and

5299 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee
5300 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall
5301 be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board
5302 regulations.

5303 § 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees;
5304 permits.

5305 A. Every person intending to apply for any license authorized by this chapter shall file with the Board an
5306 application on forms provided by the Board and a statement in writing by the applicant swearing and affirming
5307 that all of the information contained therein is true.

5308 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food
5309 establishment permit from the Department of Health or an inspection by the Department of Agriculture and
5310 Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for
5311 such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit,
5312 proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection,
5313 a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection,
5314 such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of
5315 this ~~title~~ *subtitle*; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an
5316 inspection is completed.

5317 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual
5318 banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's,
5319 wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
5320 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the
5321 Board on the front door of the building, place or room where he proposes to engage in such business for no
5322 more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as
5323 required by the Board, including a statement that any objections shall be submitted to the Board not more than
5324 30 days following initial publication of the notice required pursuant to this subsection.

5325 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a
5326 newspaper published in or having a general circulation in the county, city or town wherein such applicant
5327 proposes to engage in such business. Such notice shall contain such information as required by the Board,
5328 including a statement that any objections to the issuance of the license be submitted to the Board not later than
5329 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine
5330 and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and
5331 airplanes, the posting and publishing of notice shall not be required.

5332 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events,
5333 annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual
5334 arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal
5335 history records search, which may include a fingerprint-based national criminal history records search, on each
5336 applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal
5337 history records search and completed personal data form for officers, directors, nonmanaging members, or
5338 limited partners of any applicant corporation, limited liability company, or limited partnership.

5339 Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery
5340 permits, the Board shall notify the local governing body of each license application through the county or city
5341 attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to
5342 the granting of a license within 30 days of the filing of the application.

5343 C. Each applicant shall pay the required application fee at the time the application is filed. Each license
5344 application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual
5345 cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal
5346 Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
5347 Criminal Records Exchange for each criminal history records search required by the Board, except for banquet,
5348 tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application
5349 fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be
5350 in addition to the state license fee required pursuant to § 4.1-231 and shall not be refunded.

5351 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all
5352 licensees shall file and maintain with the Board a current, accurate record of the information required by the
5353 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with
5354 Board regulations.

5355 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board.
 5356 In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied
 5357 by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to proration to the
 5358 following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-
 5359 fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the
 5360 fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30
 5361 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall
 5362 confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by
 5363 law.

5364 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
 5365 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the
 5366 number of months for which the permit is granted.

5367 The fee for a keg registration permit shall be \$65 annually.

5368 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or
 5369 internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

5370 **§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees;**
 5371 **permits.**

5372 A. Every person intending to apply for any license authorized by this chapter shall file with the Board an
 5373 application on forms provided by the Board and a statement in writing by the applicant swearing and affirming
 5374 that all of the information contained therein is true.

5375 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food
 5376 establishment permit from the Department of Health or an inspection by the Department of Agriculture and
 5377 Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for
 5378 such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit,
 5379 proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection,
 5380 a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection,
 5381 such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of
 5382 this ~~title~~ subtitle; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an
 5383 inspection is completed.

5384 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual
 5385 banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's,
 5386 delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et
 5387 seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door
 5388 of the building, place or room where he proposes to engage in such business for no more than 30 days and not
 5389 less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including
 5390 a statement that any objections shall be submitted to the Board not more than 30 days following initial
 5391 publication of the notice required pursuant to this subsection.

5392 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a
 5393 newspaper published in or having a general circulation in the county, city, or town wherein such applicant
 5394 proposes to engage in such business. Such notice shall contain such information as required by the Board,
 5395 including a statement that any objections to the issuance of the license be submitted to the Board not later than
 5396 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees,
 5397 delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting
 5398 and publishing of notice shall not be required.

5399 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events,
 5400 annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum
 5401 licenses, the Board shall conduct a background investigation, to include a criminal history records search, which
 5402 may include a fingerprint-based national criminal history records search, on each applicant for a license.
 5403 However, the Board may waive, for good cause shown, the requirement for a criminal history records search

5404 and completed personal data form for officers, directors, nonmanaging members, or limited partners of any
5405 applicant corporation, limited liability company, or limited partnership.

5406 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the
5407 local governing body of each license application through the county or city attorney or the chief law-
5408 enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license
5409 within 30 days of the filing of the application.

5410 C. Each applicant shall pay the required application fee at the time the application is filed. Each license
5411 application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual
5412 cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal
5413 Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
5414 Criminal Records Exchange for each criminal history records search required by the Board, except for banquet,
5415 tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application
5416 fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be
5417 in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

5418 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all
5419 licensees shall file and maintain with the Board a current, accurate record of the information required by the
5420 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with
5421 Board regulations.

5422 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board.
5423 Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as
5424 otherwise provided by law.

5425 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
5426 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the
5427 number of months for which the permit is granted.

5428 F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1
5429 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer
5430 price index and shall not increase fees more than once every three years. Prior to implementing any state license
5431 fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to
5432 impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed
5433 fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has
5434 decided to increase state license fees, and such increases shall become effective July 1 of the following year.

5435 **§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.**

5436 A. The annual fees on state licenses shall be as follows:

5437 1. Alcoholic beverage licenses. For each:

5438 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the
5439 year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons
5440 manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

5441 b. Fruit distiller's license, \$3,725;

5442 c. Banquet facility license or museum license, \$190;

5443 d. Bed and breakfast establishment license, \$35;

5444 e. Tasting license, \$40 per license granted;

5445 f. Equine sporting event license, \$130;

5446 g. Motor car sporting event facility license, \$130;

5447 h. Day spa license, \$100;

5448 i. Delivery permit, \$120 if the permittee holds no other license under this ~~title~~ subtitle;

5449 j. Meal-assembly kitchen license, \$100;

5450 k. Canal boat operator license, \$100;

5451 l. Annual arts venue event license, \$100;

5452 m. Art instruction studio license, \$100;

5453 n. Commercial lifestyle center license, \$300;

- 5454 o. Confectionery license, \$100;
- 5455 p. Local special events license, \$300;
- 5456 q. Coworking establishment license, \$500; and
- 5457 r. Bespoke clothier establishment license, \$100.
- 5458 2. Wine licenses. For each:
- 5459 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license
- 5460 is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
- 5461 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year,
- 5462 \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine
- 5463 per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
- 5464 per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
- 5465 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
- 5466 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number
- 5467 of separate locations covered by the license;
- 5468 c. Wine importer's license, \$370;
- 5469 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 5470 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which
- 5471 shall include a delivery permit;
- 5472 f. Wine shipper's license, \$230; and
- 5473 g. Internet wine retailer license, \$150.
- 5474 3. Beer licenses. For each:
- 5475 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license
- 5476 is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is
- 5477 granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 5478 b. Bottler's license, \$1,430;
- 5479 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and
- 5480 \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and
- 5481 \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 5482 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the
- 5483 amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
- 5484 d. Beer importer's license, \$370;
- 5485 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of
- 5486 passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat,
- 5487 \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in
- 5488 the Commonwealth;
- 5489 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 5490 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or
- 5491 in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
- 5492 h. Beer shipper's license, \$230;
- 5493 i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
- 5494 j. Internet beer retailer license, \$150.
- 5495 4. Wine and beer licenses. For each:
- 5496 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common
- 5497 carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers
- 5498 by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars
- 5499 operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by
- 5500 airplane, \$750;
- 5501 b. Retail on-premises wine and beer license to a hospital, \$145;
- 5502 c. Retail on-premises wine and beer license to a historic cinema house, \$200;

- 5503 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
5504 grocery store license, \$230, which shall include a delivery permit;
- 5505 e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include
5506 a delivery permit;
- 5507 f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board
5508 pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 5509 g. Gourmet brewing shop license, \$230;
- 5510 h. Wine and beer shipper's license, \$230;
- 5511 i. Annual banquet license, \$150;
- 5512 j. Fulfillment warehouse license, \$120;
- 5513 k. Marketing portal license, \$150; and
- 5514 l. Gourmet oyster house license, \$230.
- 5515 5. Mixed beverage licenses. For each:
- 5516 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located
5517 on premises of and operated by hotels or motels, or other persons:
- 5518 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 5519 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 5520 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 5521 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private,
5522 nonprofit clubs:
- 5523 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 5524 (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860;
5525 and
- 5526 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 5527 c. Mixed beverage caterer's license, \$1,860;
- 5528 d. Mixed beverage limited caterer's license, \$500;
- 5529 e. Mixed beverage special events license, \$45 for each day of each event;
- 5530 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 5531 g. Annual mixed beverage special events license, \$560;
- 5532 h. Mixed beverage carrier license:
- 5533 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
5534 Commonwealth by a common carrier of passengers by train;
- 5535 (ii) \$560 for each common carrier of passengers by boat;
- 5536 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 5537 i. Annual mixed beverage amphitheater license, \$560;
- 5538 j. Annual mixed beverage motor sports race track license, \$560;
- 5539 k. Annual mixed beverage banquet license, \$500;
- 5540 l. Limited mixed beverage restaurant license:
- 5541 (i) With a seating capacity at tables for up to 100 persons, \$460;
- 5542 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
- 5543 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
- 5544 m. Annual mixed beverage motor sports facility license, \$560; and
- 5545 n. Annual mixed beverage performing arts facility license, \$560.
- 5546 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by
5547 this section on the license for which the applicant applied.
- 5548 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject
5549 to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be
5550 decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and
5551 if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

5552 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons
 5553 of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture
 5554 not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons
 5555 permitted to be manufactured shall be prorated in the same manner.

5556 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of
 5557 alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license,
 5558 such person shall pay for such unlimited license a license tax equal to the amount that would have been charged
 5559 had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol
 5560 or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount
 5561 of license tax previously paid on the limited license.

5562 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24,
 5563 or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent,
 5564 multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not
 5565 be refundable, except as provided in § 4.1-232.

5566 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant
 5567 license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to
 5568 state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the
 5569 alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license
 5570 taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first
 5571 \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor
 5572 to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine
 5573 distributor, the first \$163,800 of wine purchases shall be disregarded.

5574 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in
 5575 person from the Board if such license is available for purchase online.

5576 **§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and**
 5577 **automated clearinghouse information.**

5578 A. The Board may accept payment by any commercially acceptable means, including checks, credit cards,
 5579 debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a licensee in
 5580 accordance with this ~~title~~ *subtitle*. In addition, the Board may assess a service charge for the use of a credit or
 5581 debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the
 5582 Department.

5583 B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record of the
 5584 applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such
 5585 information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the
 5586 Board. The Board may assess a service charge as provided in subsection A for any payments made under this
 5587 subsection. The Board may procure the services of a third-party vendor for the secure storage of information
 5588 collected pursuant to this subsection.

5589 **§ 4.1-300. Illegal manufacture and bottling; penalty.**

5590 A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic
 5591 beverages in the Commonwealth without being licensed under this ~~title~~ *subtitle* to manufacture such alcoholic
 5592 beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer for sale.

5593 B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning of
 5594 this section.

5595 C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

5596 **§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.**

5597 If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~ *subtitle*, he
 5598 shall be guilty of a Class 1 misdemeanor.

5599 In the event of a second or subsequent conviction under this section, a jail sentence of no less than ~~thirty~~ 30
 5600 days shall be imposed and in no case be suspended.

5601 **§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

5602 If any person buys alcoholic beverages from any person other than the Board, a government store or a
5603 person authorized under this ~~title~~ subtitle to sell alcoholic beverages, he shall be guilty of a Class 1
5604 misdemeanor.

5605 **§ 4.1-310. (Effective until July 1, 2021) Illegal importation, shipment and transportation of alcoholic**
5606 **beverages; penalty; exception.**

5607 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported or brought into
5608 the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board.
5609 However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i)
5610 persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or
5611 (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the
5612 Board shall charge only a reasonable permit fee.

5613 B. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported
5614 or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

5615 C. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported
5616 or brought into the Commonwealth except to persons licensed to sell it.

5617 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5618 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession,
5619 or through United States Customs in his accompanying baggage, into the Commonwealth not for resale,
5620 alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages
5621 being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth
5622 of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person
5623 relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages
5624 on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers
5625 engaged in interstate or foreign commerce.

5626 **§ 4.1-310. (Effective July 1, 2021) Illegal importation, shipment and transportation of alcoholic**
5627 **beverages; penalty; exception.**

5628 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or brought into
5629 the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board.
5630 However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i)
5631 persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or
5632 (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the
5633 Board shall charge only a reasonable permit fee.

5634 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
5635 be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine
5636 licensee.

5637 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
5638 be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

5639 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5640 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession,
5641 or through United States Customs in his accompanying baggage, into the Commonwealth not for resale,
5642 alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages
5643 being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth
5644 of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person
5645 relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages
5646 on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers
5647 engaged in interstate or foreign commerce.

5648 **§ 4.1-310.1. (Effective until 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 § 4.1-207.1 shall be exempt from the requirement set
5654 forth in clause (ii).

5655 **§ 4.1-310.1. (Effective July 1, 2021) Delivery of wine or beer to retail licensee.**

5656 Except as otherwise provided in this ~~title~~ *subtitle* or in Board regulation, no wine or beer may be shipped
5657 or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed
5658 premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not
5659 less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder
5660 of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-206.2 shall be exempt from the
5661 requirement set forth in clause (ii).

5662 **§ 4.1-320. Illegal advertising; penalty; exception.**

5663 A. Except in accordance with this ~~title~~ *subtitle* and Board regulations, no person shall advertise in or send
5664 any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which
5665 may legally be manufactured or sold without a license.

5666 B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage
5667 advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board
5668 regulations.

5669 C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of
5670 a Class 1 misdemeanor.

5671 D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the
5672 Board shall give the advertiser written notice to take corrective action to either bring the advertisement into
5673 compliance with this ~~title~~ *subtitle* and Board regulations or to remove such advertisement. If corrective action
5674 is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

5675 E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale
5676 value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the
5677 exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other
5678 competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery,
5679 winery or brewery and the display on the automobile, boat or aircraft and uniforms of the members of the racing
5680 team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery;
5681 (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by
5682 a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in
5683 connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any
5684 airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any
5685 alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any
5686 motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia,
5687 coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events;
5688 or (vii) the sponsorship of an entertainment or cultural event.

5689 **§ 4.1-323. Attempts; aiding or abetting; penalty.**

5690 No person shall attempt to do any of the things prohibited by this ~~title~~ *subtitle* or to aid or abet another in
5691 doing, or attempting to do, any of the things prohibited by this ~~title~~ *subtitle*.

5692 On an indictment, information or warrant for the violation of this ~~title~~ *subtitle*, the jury or the court may
5693 find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the
5694 defendant were solely guilty of such violation.

5695 **§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.**

5696 A. No licensee or any agent or employee of such licensee shall:

5697 1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title~~ *subtitle* authorizes
5698 him to sell;

5699 2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may
5700 combine wine or spirits, or both, with beer pursuant to a patron's order;

- 5701 3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the
5702 manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that
5703 contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant
5704 to a patron's order;
- 5705 4. Sell alcoholic beverages of a kind which such license or this ~~title~~ *subtitle* authorizes him to sell, but to
5706 any person other than to those to whom such license or this ~~title~~ *subtitle* authorizes him to sell;
- 5707 5. Sell alcoholic beverages which such license or this ~~title~~ *subtitle* authorizes him to sell, but in any place
5708 or in any manner other than such license or this ~~title~~ *subtitle* authorizes him to sell;
- 5709 6. Sell any alcoholic beverages when forbidden by this ~~title~~ *subtitle*;
- 5710 7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages
5711 other than that which he is authorized to sell by such license or by this ~~title~~ *subtitle*;
- 5712 8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer
5713 license;
- 5714 9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of
5715 any beer sold;
- 5716 10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller
5717 holds a wholesale wine or farm winery license;
- 5718 11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol
5719 vaporizing device;
- 5720 12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him
5721 except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the
5722 Board pending automatic dispensing and sale of such wine; or
- 5723 13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device
5724 to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of
5725 an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price
5726 charged for the same alcoholic beverage.
- 5727 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.
- 5728 C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee from using
5729 alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of
5730 preparing and selling for on-premises consumption food products with a final alcohol content of more than one-
5731 half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21
5732 years of age or older.
- 5733 **§ 4.1-325. (Effective until July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.**
- 5734 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:
- 5735 1. Sell or serve any alcoholic beverage other than as authorized by law;
- 5736 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
- 5737 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this
5738 ~~title~~ *subtitle*;
- 5739 4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to
5740 sell;
- 5741 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
- 5742 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except
5743 (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type
5744 approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic
5745 dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision
5746 nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to
5747 which spirits may be added, to be served and sold for consumption on the licensed premises;
- 5748 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the
5749 contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted
5750 pursuant to subdivision B 11 of § 4.1-111;

- 5751 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser
5752 without first advising such purchaser of the difference;
- 5753 9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered
5754 for sale;
- 5755 10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;
- 5756 11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed
5757 premises;
- 5758 12. Allow any striptease act on the licensed premises;
- 5759 13. Allow persons connected with the licensed business to appear nude or partially nude;
- 5760 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a
5761 position that is involved in the selling or serving of alcoholic beverages to customers.
- 5762 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i)
5763 consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed
5764 beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who
5765 represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee
5766 or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an
5767 alcoholic beverage that has been or will be delivered to a customer for quality control purposes;
- 5768 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether
5769 the closure is broken or unbroken except in accordance with § 4.1-210.
- 5770 The provisions of this subdivision shall not apply to the delivery of:
- 5771 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage
5772 distilled from rice, barley or sweet potatoes; or
- 5773 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no
5774 greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;
- 5775 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
- 5776 17. Conceal any sale or consumption of any alcoholic beverages;
- 5777 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or
5778 obstruct special agents of the Board in the discharge of their duties;
- 5779 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such
5780 alcoholic beverages from the premises;
- 5781 20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute,
5782 panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess
5783 or engages in illegal gambling;
- 5784 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine
5785 or apparatus;
- 5786 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of
5787 normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in
5788 this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference,
5789 convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in
5790 the course of usual and customary business entertainment and is in no way a shift or device to evade the
5791 restriction set forth in this subdivision; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision
5792 A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be
5793 subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep
5794 complete and accurate records of gifts given in accordance with this subdivision; or
- 5795 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device
5796 to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of
5797 an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price
5798 charged for the same alcoholic beverage.
- 5799 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5800 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls,
 5801 art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances,
 5802 when the performances that are presented are expressing matters of serious literary, artistic, scientific, or
 5803 political value.

5804 **§ 4.1-325. (Effective July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.**

5805 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

- 5806 1. Sell or serve any alcoholic beverage other than as authorized by law;
- 5807 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
- 5808 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this
 5809 ~~title~~ subtitle;
- 5810 4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to
 5811 sell;
- 5812 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
- 5813 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except
 5814 (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type
 5815 approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic
 5816 dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision
 5817 nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to
 5818 which spirits may be added, to be served and sold for consumption on the licensed premises;
- 5819 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the
 5820 contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted
 5821 pursuant to subdivision B 11 of § 4.1-111;
- 5822 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser
 5823 without first advising such purchaser of the difference;
- 5824 9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered
 5825 for sale;
- 5826 10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;
- 5827 11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed
 5828 premises;
- 5829 12. Allow any striptease act on the licensed premises;
- 5830 13. Allow persons connected with the licensed business to appear nude or partially nude;
- 5831 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a
 5832 position that is involved in the selling or serving of alcoholic beverages to customers.
- 5833 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i)
 5834 consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed
 5835 beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who
 5836 represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee
 5837 or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an
 5838 alcoholic beverage that has been or will be delivered to a customer for quality control purposes;
- 5839 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether
 5840 the closure is broken or unbroken except in accordance with § 4.1-206.3.
- 5841 The provisions of this subdivision shall not apply to the delivery of:
- 5842 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage
 5843 distilled from rice, barley or sweet potatoes; or
- 5844 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no
 5845 greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;
- 5846 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
- 5847 17. Conceal any sale or consumption of any alcoholic beverages;
- 5848 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or
 5849 obstruct special agents of the Board in the discharge of their duties;

5850 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such
5851 alcoholic beverages from the premises;

5852 20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute,
5853 panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess
5854 or engages in illegal gambling;

5855 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine
5856 or apparatus;

5857 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of
5858 normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in
5859 this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference,
5860 convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in
5861 the course of usual and customary business entertainment and is in no way a shift or device to evade the
5862 restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision
5863 A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be
5864 subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep
5865 complete and accurate records of gifts given in accordance with this subdivision; or

5866 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device
5867 to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of
5868 an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price
5869 charged for the same alcoholic beverage.

5870 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5871 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls,
5872 art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances,
5873 when the performances that are presented are expressing matters of serious literary, artistic, scientific, or
5874 political value.

5875 **§ 4.1-325.2. (Effective until July 1, 2021) Prohibited acts by employees of wine or beer licensees;**
5876 **penalty.**

5877 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall
5878 consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of
5879 alcoholic beverages to customers.

5880 The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i)
5881 consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer
5882 or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the
5883 retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii)
5884 tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

5885 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees
5886 that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be
5887 agents of the retail wine or beer licensee.

5888 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage,
5889 other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is
5890 in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for
5891 the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on
5892 the premises of the licensee, when such gift is made in the course of usual and customary business entertainment
5893 and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection
5894 D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any
5895 gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic
5896 beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this
5897 subsection.

5898 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to
5899 exceed \$500.

5900 § 4.1-325.2. (Effective July 1, 2021) Prohibited acts by employees of wine or beer licensees; penalty.

5901 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall
5902 consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of
5903 alcoholic beverages to customers.

5904 The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i)
5905 consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer
5906 or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the
5907 retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii)
5908 tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

5909 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees
5910 that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be
5911 agents of the retail wine or beer licensee.

5912 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage,
5913 other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is
5914 in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for
5915 the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on
5916 the premises of the licensee, when such gift is made in the course of usual and customary business entertainment
5917 and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection
5918 B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any
5919 gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic
5920 beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this
5921 subsection.

5922 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to
5923 exceed \$500.

5924 § 4.1-329. Illegal advertising materials; penalty.

5925 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any
5926 manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving
5927 to any person any advertising materials or decorations under circumstances prohibited by this ~~title~~ subtitle or
5928 Board regulations.

5929 Any person found by the Board to have violated this section shall be subject to a civil penalty as provided
5930 in § 4.1-227.

5931 § 4.1-336. Contraband beverages and other articles subject to forfeiture.

5932 All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic
5933 beverages and materials used in their manufacture, all containers in which alcoholic beverages may be found,
5934 which are kept, stored, possessed, or in any manner used in violation of the provisions of this ~~title~~ subtitle, and
5935 any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person
5936 or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or
5937 sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of
5938 burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate
5939 vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or
5940 vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to
5941 the Commonwealth.

5942 Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such
5943 property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et
5944 seq.) of Title 19.2.

5945 § 4.1-337. Search warrants.

5946 A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored, or in
5947 any manner held, used or concealed in a particular house, or other place, in violation of law, the judge,
5948 magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if
5949 satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place

5950 for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and
5951 executed in accordance with the laws of the Commonwealth pertaining to search warrants.

5952 B. Warrants issued under this ~~title~~ *sub*title for the search of any automobile, boat, conveyance or vehicle,
5953 whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for alcoholic
5954 beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made
5955 returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or
5956 article of baggage, or any of them, was transported or attempted to be transported contrary to law.

5957 **§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.**

5958 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited
5959 to the Commonwealth under this chapter shall be as provided in this section.

5960 B. Production of seized property.— Whenever any article declared contraband under the provisions of this
5961 ~~title~~ *sub*title and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by
5962 any officer charged with the enforcement of this ~~title~~ *sub*title, he shall produce the contraband article and any
5963 person in whose possession it was found. In those cases where no person is found in possession of such articles
5964 the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where
5965 the articles were found, or if there is no door, then in any conspicuous place upon the premises.

5966 In case of seizure of a still, doubler, worm, worm tub, mash tub, mash tub, fermenting tub, or other distilling apparatus,
5967 for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place
5968 of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary
5969 to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of
5970 at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and
5971 destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons
5972 for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials
5973 remaining after such destruction. The report shall include a statement that, from facts within their own
5974 knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for
5975 use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such
5976 apparatus to a place of safe storage.

5977 In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws
5978 of the United States has not been paid, for any offense involving forfeiture of the same, the seizing officer may
5979 destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation of spirits or
5980 any other violation of this ~~title~~ *sub*title. The destruction shall be in the presence of at least one credible witness,
5981 and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board.
5982 The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a
5983 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever
5984 that the mash was intended for use in the unlawful distillation of spirits, or that the alcoholic beverages were
5985 intended for use in violation of this ~~title~~ *sub*title.

5986 C. Hearing and determination.— Upon the return of the warrant as provided in this section, the court shall
5987 fix a time not less than ~~ten~~ 10 days, unless waived by the accused in writing, and not more than ~~thirty~~ 30 days
5988 thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof,
5989 were used or in any manner kept, stored or possessed in violation of this ~~title~~ *sub*title.

5990 At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the
5991 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them
5992 over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and
5993 file a written claim setting forth particularly the character and extent of his interest. The court shall certify the
5994 warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity
5995 of such claim.

5996 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be
5997 turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a
5998 bar to any prosecution under any other provision of this ~~title~~ *sub*title.

5999 D. Disposition of forfeited beverages and other articles.— Any articles forfeited to the Commonwealth and
6000 turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems
6001 proper. The net proceeds from such sales shall be paid into the Literary Fund. If the Board believes that any
6002 alcoholic beverages forfeited to the Commonwealth and turned over to the Board in accordance with this section
6003 cannot be sold and should not be destroyed, it may give such alcoholic beverages for medicinal purposes to any
6004 institution in the Commonwealth regularly conducted as a hospital, nursing home or sanatorium for the care of
6005 persons in ill health, or as a home devoted exclusively to the care of aged people, to supply the needs of such
6006 institution for alcoholic beverages for such purposes, provided that (i) the State Health Commissioner has issued
6007 a certificate stating that such institution has need for such alcoholic beverages and (ii) preference is accorded
6008 by the Board to institutions supported either in whole or in part by public funds. A record shall be made showing
6009 the amount issued in each case, to whom issued and the date when issued, and shall be kept in the offices of the
6010 State Health Commissioner and the Board. No charge shall be made to any patient for the alcoholic beverages
6011 supplied to him where they have been received from the Board pursuant to this section. Such alcoholic
6012 beverages shall be administered only upon approval of the patient's physician.

6013 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in
6014 accordance with this section are usable, should not be destroyed and cannot be sold or whose sale would be
6015 impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the
6016 local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made
6017 showing the nature of the foodstuffs and amount given, to whom given and the date when given, and shall be
6018 kept in the offices of the Board.

6019 **§ 4.1-348. Beverages not licensed under this subtitle.**

6020 The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages which may be
6021 manufactured and sold without any license under the provisions of this ~~title~~ subtitle.

6022 **§ 4.1-349. Punishment for violations of title or regulations; bond.**

6023 A. Any person convicted of a misdemeanor under the provisions of this ~~title~~ subtitle without specification
6024 as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of
6025 violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

6026 B. In addition to the penalties imposed by this ~~title~~ subtitle for violations, any court before whom any person
6027 is convicted of a violation of any provision of this ~~title~~ subtitle may require such defendant to execute bond,
6028 with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not
6029 violate any of the provisions of this ~~title~~ subtitle for the term of one year. If any such bond is required and is
6030 not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court,
6031 provided he shall not be confined for a period longer than six months. If any such bond required by a court is
6032 not given during the term of the court by which conviction is had, it may be given before any judge or before
6033 the clerk of such court.

6034 C. The provisions of this ~~title~~ subtitle shall not prevent the Board from suspending, revoking or refusing to
6035 continue the license of any person convicted of a violation of any provision of this ~~title~~ subtitle.

6036 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has
6037 been notified that such a case is pending.

6038 **§ 4.1-350. Witness not excused from testifying because of self-incrimination.**

6039 No person shall be excused from testifying for the Commonwealth as to any offense committed by another
6040 under this ~~title~~ subtitle by reason of his testimony tending to incriminate him. The testimony given by such
6041 person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against
6042 him and he shall not be prosecuted for the offense to which he testifies.

6043 **§ 4.1-351. Previous convictions.**

6044 In any indictment, information or warrant charging any person with a violation of any provision of this ~~title~~
6045 subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person
6046 has been previously convicted of a violation of this ~~title~~ subtitle.

6047 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

6048 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the
 6049 Department of Forensic Science, when signed by him, shall be *admissible as evidence* ~~in all prosecutions for~~
 6050 ~~violations of this title and all controversies in any judicial proceedings touching the mixture analyzed by him~~
 6051 *of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the*
 6052 *requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the*
 6053 *admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion*
 6054 *of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear*
 6055 *as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior*
 6056 *to the day on which the case is set for trial.*

6057 **§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.**

6058 In any prosecution for violations of this ~~title~~ *subtitle*, where a sealed container is labeled as containing an
 6059 alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the
 6060 container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content
 6061 of a container, whether sealed or not.

6062 **§ 4.1-354. No recovery for alcoholic beverages illegally sold.**

6063 No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ *subtitle* may be
 6064 maintained.

6065 *SUBTITLE II.*

6066 *CANNABIS CONTROL ACT.*

6067 *CHAPTER 6.*

6068 *GENERAL PROVISIONS.*

6069 **§ 4.1-600. Definitions.**

6070 *As used in this subtitle, unless the context requires a different meaning:*

6071 *"Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is*
 6072 *calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds,*
 6073 *including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor*
 6074 *display, publication, or radio or television broadcast.*

6075 *"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.*

6076 *"Board" means the Board of Directors of the Virginia Cannabis Control Authority.*

6077 *"Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).*

6078 *"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to*
 6079 *be significantly difficult for a typical child under five years of age to open and not to be significantly difficult*
 6080 *for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that*
 6081 *contains multiple servings, resealable.*

6082 *"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,*
 6083 *trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include*
 6084 *manufacturing or testing.*

6085 *"Edible marijuana product" means a marijuana product intended to be consumed orally, including*
 6086 *marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.*

6087 *"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider*
 6088 *than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.*

6089 *"Licensed" means the holding of a valid license granted by the Authority.*

6090 *"Licensee" means any person to whom a license has been granted by the Authority.*

6091 *"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing,*
 6092 *compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or*
 6093 *preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation*
 6094 *or testing.*

6095 *"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin;*
 6096 *and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,*
 6097 *or any extract containing one or more cannabinoids. "Marijuana" does not include the mature stalks of such*

6098 *plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber,*
6099 *oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana" does not include (i)*
6100 *industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of*
6101 *§ 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol*
6102 *concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that*
6103 *is grown, dealt, or processed in compliance with state or federal law.*

6104 *"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active*
6105 *cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant*
6106 *is a concentrate for purposes of this subtitle.*

6107 *"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package*
6108 *retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana*
6109 *cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and*
6110 *marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail*
6111 *marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer*
6112 *possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana*
6113 *plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.*

6114 *"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana*
6115 *manufacturing facility, a marijuana wholesaler, or a retail marijuana store.*

6116 *"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and*
6117 *package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana*
6118 *from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession*
6119 *of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores,*
6120 *or other marijuana manufacturing facilities.*

6121 *"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either*
6122 *designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,*
6123 *manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,*
6124 *packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the*
6125 *human body marijuana.*

6126 *"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are*
6127 *intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.*

6128 *"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test*
6129 *marijuana, marijuana products, and other substances.*

6130 *"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail*
6131 *marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana*
6132 *cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer*
6133 *possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and*
6134 *marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store,*
6135 *or another marijuana wholesaler.*

6136 *"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed*
6137 *marijuana establishment.*

6138 *"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a*
6139 *licensed marijuana establishment.*

6140 *"Place or premises" means the real estate, together with any buildings or other improvements thereon,*
6141 *designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of*
6142 *retail marijuana or retail marijuana products shall be performed, except that portion of any such building or*
6143 *other improvement actually and exclusively used as a private residence.*

6144 *"Public place" means any place, building, or conveyance to which the public has, or is permitted to have,*
6145 *access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,*
6146 *place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.*

6147 *"Residence" means any building or part of a building or structure where a person resides, but does not*
6148 *include any part of a building that is not actually and exclusively used as a private residence, nor any part of a*
6149 *hotel or club other than a private guest room thereof.*

6150 *"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana*
6151 *establishment.*

6152 *"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed*
6153 *marijuana establishment.*

6154 *"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of*
6155 *retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana*
6156 *cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana,*
6157 *retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.*

6158 *"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;*
6159 *peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana*
6160 *or retail marijuana products.*

6161 *"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has*
6162 *designated as a law-enforcement officer pursuant to this subtitle.*

6163 *"Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances*
6164 *for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.*

6165 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

6166 *A. The General Assembly has determined that there exists in the Commonwealth a need to control the*
6167 *possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in*
6168 *the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose*
6169 *is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and*
6170 *prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent*
6171 *political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state*
6172 *government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and*
6173 *duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a*
6174 *matter of public necessity for which public moneys may be spent.*

6175 *B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation,*
6176 *distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth, with plenary*
6177 *power to prescribe and enforce regulations and conditions under which retail marijuana and retail marijuana*
6178 *products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent,*
6179 *dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of*
6180 *the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects for*
6181 *the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, and*
6182 *convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be*
6183 *distributable to, any private individual, except that reasonable compensation may be paid for services rendered*
6184 *to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity*
6185 *with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate*
6186 *assets on dissolution of the Authority.*

6187 **§ 4.1-602. Virginia Cannabis Control Authority; composition.**

6188 *A. The Virginia Cannabis Control Authority shall consist of the Board of Directors, the Cannabis Public*
6189 *Health Advisory Council, the Chief Executive Officer, and the agents and employees of the Authority.*

6190 *B. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any powers that*
6191 *the Board might otherwise have under any other law of the Commonwealth.*

6192 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**
6193 **compensation and expenses; duties.**

6194 *A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory*
6195 *council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues, trends,*
6196 *and impacts related to marijuana and marijuana legalization and make recommendations regarding health*

6197 warnings, retail marijuana and retail marijuana products safety and product composition, and public health
6198 awareness, programming, and related resource needs.

6199 *B. The Advisory Council shall have a total membership of 21 members that shall consist of 14 nonlegislative*
6200 *citizen members and seven ex officio members. Nonlegislative citizen members of the Council shall be citizens*
6201 *of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of the*
6202 *Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by the*
6203 *Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for Healthy*
6204 *Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy of Pediatrics,*
6205 *one of whom shall be a representative from the Medical Society of Virginia, and one of whom shall be a*
6206 *representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the House of*
6207 *Delegates, one of whom shall be a representative from a community services board, one of whom shall be a*
6208 *person or health care provider with expertise in substance use disorder treatment and recovery, one of whom*
6209 *shall be a person or health care provider with expertise in substance use disorder prevention, one of whom*
6210 *shall be a person with experience in disability rights advocacy, one of whom shall be a person with experience*
6211 *in veterans health care, and one of whom shall be a person with a social or health equity background; and four*
6212 *to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a*
6213 *representative of a local health district, one of whom shall be a person who is part of the cannabis industry,*
6214 *one of whom shall be an academic researcher knowledgeable about cannabis, and one of whom shall be a*
6215 *registered medical cannabis patient.*

6216 *The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of*
6217 *Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the*
6218 *Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the*
6219 *Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex officio*
6220 *with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with their terms*
6221 *of office.*

6222 *After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four*
6223 *years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.*
6224 *Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.*

6225 *The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.*
6226 *The Advisory Council shall select a vice-chairman from among its membership. A majority of the members*
6227 *shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the*
6228 *call of the chairman or whenever the majority of the members so request.*

6229 *The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,*
6230 *and state agency representatives.*

6231 *C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for*
6232 *all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813*
6233 *and 2.2-2825.*

6234 *D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to*
6235 *fulfill its purpose as described in subsection A:*

6236 *1. To review multi-agency efforts to support collaboration and a unified approach on public health*
6237 *responses related to marijuana and marijuana legalization in the Commonwealth and to develop*
6238 *recommendations as necessary.*

6239 *2. To monitor changes in drug use data related to marijuana and marijuana legalization in the*
6240 *Commonwealth and the science and medical information relevant to the potential health risks associated with*
6241 *such drug use, and make appropriate recommendations to the Department of Health and the Board.*

6242 *3. Submit an annual report to the Governor and the General Assembly for publication as a report document*
6243 *as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative*
6244 *documents and reports. The chairman shall submit to the Governor and the General Assembly an annual*
6245 *executive summary of the interim activity and work of the Advisory Council no later than the first day of each*
6246 *regular session of the General Assembly. The executive summary shall be submitted as a report document as*

6247 *provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative*
6248 *documents and reports and shall be posted on the General Assembly's website.*

6249 **§ 4.1-604. Powers and duties of the Board.**

6250 *The Board shall have the following powers and duties:*

6251 *1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §*
6252 *4.1-606;*

6253 *2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;*

6254 *3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of*
6255 *marijuana and marijuana products as provided by law;*

6256 *4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be*
6257 *kept or sold and prescribe the form and content of all labels and seals to be placed thereon;*

6258 *5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;*

6259 *6. Establish standards and implement an online course for employees of retail marijuana stores that trains*
6260 *employees on how to educate consumers on the potential risks of marijuana use;*

6261 *7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar*
6262 *document regarding the potential risks of marijuana use to be prominently displayed and made available to*
6263 *consumers;*

6264 *8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity*
6265 *and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related*
6266 *to diversity, equity, and inclusion standards in the marijuana industry;*

6267 *9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements*
6268 *for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a*
6269 *license in more than one license category pursuant to subsection C of § 4.1-805, which may include a*
6270 *requirement that the licensee participate in social equity apprenticeship plan, and an approval process and*
6271 *requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential*
6272 *barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses*
6273 *interested in participating in the marijuana industry and recommending strategies to effectively mitigate such*
6274 *potential barriers; (iii) provide assistance with business planning for potential marijuana establishment*
6275 *licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas*
6276 *disproportionately impacted by marijuana prohibition and enforcement; (v) provide technical assistance in*
6277 *navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other*
6278 *outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as*
6279 *necessary;*

6280 *10. Establish a position for an individual with professional experience in a health related field who shall*
6281 *staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of*
6282 *the Secretary of Health and Human Resources and relevant health and human services agencies and*
6283 *organizations, and perform other duties as needed.*

6284 *11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the*
6285 *Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry*
6286 *by people from communities that have been disproportionately impacted by marijuana prohibition and*
6287 *enforcement and to positively impact those communities;*

6288 *12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;*

6289 *13. Adopt, use, and alter at will a common seal;*

6290 *14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale*
6291 *of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose*
6292 *of providing for the payment of the expenses of the Authority;*

6293 *15. Make and enter into all contracts and agreements necessary or incidental to the performance of its*
6294 *duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements*
6295 *with any person or federal agency;*

6296 16. *Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,*
6297 *investment bankers, superintendents, managers, and such other employees and special agents as may be*
6298 *necessary and fix their compensation to be payable from funds made available to the Authority. Legal services*
6299 *for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of*
6300 *Title 2.2;*

6301 17. *Receive and accept from any federal or private agency, foundation, corporation, association, or person*
6302 *grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept*
6303 *from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or*
6304 *from any other source aid or contributions of either money, property, or other things of value, to be held, used,*
6305 *and applied only for the purposes for which such grants and contributions may be made. All federal moneys*
6306 *accepted under this section shall be accepted and expended by the Authority upon such terms and conditions*
6307 *as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under*
6308 *this section shall be expended by the Authority upon such terms and conditions as are prescribed by the*
6309 *Commonwealth;*

6310 18. *Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall*
6311 *be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.*
6312 *The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee*
6313 *of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any*
6314 *delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the*
6315 *exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive*
6316 *summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to*
6317 *ensure faithful performance of the duties and tasks;*

6318 19. *Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's*
6319 *purposes or necessary or convenient to exercise its powers;*

6320 20. *Develop policies and procedures generally applicable to the procurement of goods, services, and*
6321 *construction, based upon competitive principles;*

6322 21. *Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title*
6323 *2.2;*

6324 22. *Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,*
6325 *tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the*
6326 *Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,*
6327 *at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to*
6328 *any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time*
6329 *acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and*
6330 *conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed,*
6331 *tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and*
6332 *conditions as may be determined by the Board; and occupy and improve any land or building required for the*
6333 *purposes of this subtitle;*

6334 23. *Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered*
6335 *necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and*
6336 *processing plants;*

6337 24. *Appoint every agent and employee required for its operations, require any or all of them to give bonds*
6338 *payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts*
6339 *and professionals;*

6340 25. *Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production*
6341 *of records, memoranda, papers, and other documents before the Board or any agent of the Board, and*
6342 *administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the*
6343 *Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and*
6344 *decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may*
6345 *enter into consent agreements and may request and accept from any applicant or licensee a consent agreement*

6346 *in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent*
 6347 *agreement shall include findings of fact and may include an admission or a finding of a violation. A consent*
 6348 *agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under*
 6349 *the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in*
 6350 *future disciplinary proceedings;*

6351 26. *Make a reasonable charge for preparing and furnishing statistical information and compilations to*
 6352 *persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions*
 6353 *if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining*
 6354 *the information requested if such information is not to be used for commercial or trade purposes;*

6355 27. *Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;*

6356 28. *Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive*
 6357 *Officer as the Board deems appropriate;*

6358 29. *Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement*
 6359 *activities undertaken to enforce the provisions of this subtitle;*

6360 30. *Establish and collect fees for all permits set forth in this subtitle, including fees associated with*
 6361 *applications for such permits;*

6362 31. *Develop and make available on its website guidance documents regarding compliance and safe*
 6363 *practices for persons who cultivate marijuana at home for personal use, which shall include information*
 6364 *regarding cultivation practices that promote personal and public safety, including child protection, and*
 6365 *discourage practices that create a nuisance;*

6366 32. *Develop and make available on its website a resource that provides information regarding (i)*
 6367 *responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana*
 6368 *consumption, including inability to operate a motor vehicle and other types of transportation and equipment;*
 6369 *and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment*
 6370 *opportunities. The Board shall require that the web address for such resource be included on the label of all*
 6371 *retail marijuana and retail marijuana product as provided in § 4.1-1402; and*

6372 33. *Do all acts necessary or advisable to carry out the purposes of this subtitle.*

6373 **§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.**

6374 A. *As used in this section:*

6375 *"Appropriate case" means any alleged license violation or objection to the application for a license in*
 6376 *which it is apparent that there are significant issues of disagreement among interested persons and for which*
 6377 *the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.*

6378 *"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.*

6379 *"Mediation" means the same as that term is defined in § 8.01-576.4.*

6380 *"Neutral" means the same as that term is defined in § 8.01-576.4.*

6381 B. *The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve*
 6382 *underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute*
 6383 *resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than*
 6384 *limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding*
 6385 *may be used for an objection to the issuance of a license only with the consent of, and participation by, the*
 6386 *applicant for licensure and shall be terminated at the request of such applicant.*

6387 C. *Any resolution of a contested issue accepted by the Board under this section shall be considered a*
 6388 *consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding*
 6389 *is in the Board's sole discretion and shall not be subject to judicial review.*

6390 D. *The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-*
 6391 *4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and*
 6392 *procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for*
 6393 *interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of*
 6394 *a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii)*
 6395 *procedures to protect the confidentiality of papers, work products, or other materials.*

6396 E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution
 6397 proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or
 6398 relies on information obtained in the course of such proceeding in granting a license, suspending or revoking
 6399 a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed
 6400 by the parties shall not be confidential.

6401 **§ 4.1-606. Regulations of the Board.**

6402 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general
 6403 laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent
 6404 the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The Board may
 6405 amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance
 6406 with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

6407 B. The Board shall promulgate regulations that:

6408 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including
 6409 security requirements to include lighting, physical security, and alarm requirements, provided that such
 6410 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

6411 2. Establish requirements for securely transporting marijuana between marijuana establishments;

6412 3. Establish sanitary standards for retail marijuana product preparation;

6413 4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Chapter 14
 6414 (§ 4.1-1400 et seq.);

6415 5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in
 6416 a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6417 6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail
 6418 marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions
 6419 of this subtitle;

6420 7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not exceed
 6421 (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount for
 6422 other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where
 6423 practicable an equivalent amount for other marijuana products. Such regulations may include other product
 6424 and dispensing limitations on tetrahydrocannabinol;

6425 8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

6426 9. Provide alternative methods for licensees to maintain and store business records that are subject to
 6427 Board inspection, including methods for Board-approved electronic and offsite storage;

6428 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores
 6429 in the community and (ii) metrics that have similarly shown an association with negative community-level
 6430 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the
 6431 Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

6432 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
 6433 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
 6434 record with the Board by certified mail, return receipt requested, and by regular mail;

6435 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to
 6436 subsection C of § 4.1-1002;

6437 13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant
 6438 who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an applicant with
 6439 at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for
 6440 any misdemeanor violation of § 18.2-248.1, § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to
 6441 marijuana; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child,
 6442 sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor
 6443 violation of § 18.2-248.1, § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an
 6444 applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the
 6445 past five years in a jurisdiction that is determined by the Board after utilizing census tract data made available

6446 *by the United States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an*
6447 *applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the*
6448 *last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the*
6449 *United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent*
6450 *ownership by a person or persons who graduated from a historically black college or university located in the*
6451 *Commonwealth;*

6452 *14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish*
6453 *standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana*
6454 *crimes and (ii) which jurisdictions are economically distressed;*

6455 *15. Establish standards and requirements for (i) any preference in the licensing process for qualified social*
6456 *equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity*
6457 *applicant, and (iii) a low-interest business loan program for qualified social equity applicants;*

6458 *16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation*
6459 *of marijuana that promote personal and public safety, including child protection, and discourage personal*
6460 *cultivation practices that create a nuisance, including a nuisance caused by odor;*

6461 *17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana*
6462 *or retail marijuana products, not inconsistent with the provisions of this chapter, so that such advertising*
6463 *displaces the illicit market and notifies the public of the location of marijuana establishments. Such regulations*
6464 *shall be promulgated in accordance with § 4.1-1404;*

6465 *18. Establish restrictions on the number of licenses that a person may be granted to operate a marijuana*
6466 *establishment in single locality or region; and*

6467 *19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been*
6468 *granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all*
6469 *licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit*
6470 *the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp*
6471 *processor that such processor may offer for sale in its retail marijuana stores.*

6472 *C. The Board may promulgate regulations that:*

6473 *1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the*
6474 *number of licenses issued shall not exceed the following limits:*

6475 *a. Retail marijuana stores, 400;*

6476 *b. Marijuana wholesalers, 25;*

6477 *c. Marijuana manufacturing facilities, 60; and*

6478 *d. Marijuana cultivation facilities, 450.*

6479 *In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any*
6480 *license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a*
6481 *permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii)*
6482 *an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant*
6483 *to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.*

6484 *2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and*
6485 *4.1-1004, including method of filing a return, information required on a return, and form of payment.*

6486 *3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square feet.*

6487 *4. Allow certain persons to be granted or have interest in a license in more than one of the following license*
6488 *categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana*
6489 *wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical*
6490 *integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to*
6491 *participate in the market.*

6492 *D. Board regulations shall be uniform in their application, except those relating to hours of sale for*
6493 *licensees.*

6494 *E. Courts shall take judicial notice of Board regulations.*

6495 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
6496 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7,
6497 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the
6498 members of the Cannabis Public Health Advisory Council.

6499 G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy
6500 to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5
6501 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any
6502 applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security
6503 requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance
6504 with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis
6505 dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of
6506 Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this
6507 subtitle.

6508 H. The Board's power to regulate shall be broadly construed.

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, gender, and geographic
6517 diversity of the Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-
6518 609.

6519 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members
6520 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired
6521 term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms;
6522 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the
6523 Board may be removed from office by the Governor for cause, including the improper use of its police powers,
6524 malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure
6525 to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly,
6526 or refusal to carry out a lawful directive of the Governor.

6527 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership
6528 of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The
6529 Board may also form committees and advisory councils, which may include representatives who are not
6530 members of the Board, to undertake more extensive study and discussion of the issues before the Board. A
6531 majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy
6532 in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the
6533 Authority.

6534 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be
6535 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written
6536 request of a majority of the Board members.

6537 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses
6538 for the performance of their official duties as set forth in the general appropriation act for members of the
6539 House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall
6540 receive annually such salary, compensation, and reimbursement of expenses for the performance of his official
6541 duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General
6542 Assembly is not in session.

6543 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall
6544 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the
6545 Authority.

6546 § 4.1-608. **Appointment, salary, and powers of Chief Executive Officer; appointment of confidential**
6547 **assistant to the Chief Executive Officer.**

6548 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the
6549 affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive
6550 Officer shall not be a member of the Board, shall hold, at a minimum, a baccalaureate degree in business or a
6551 related field of study, and shall possess a minimum of seven years of demonstrated experience or expertise in
6552 the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall
6553 receive such compensation as determined by the Board and approved by the Governor, including any
6554 performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject
6555 to a background check in accordance with § 4.1-609. The Chief Executive Officer shall (i) carry out the powers
6556 and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures
6557 or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from
6558 office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance,
6559 misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet
6560 performance measures or targets as set by the Board and approved by the Governor, failure to carry out the
6561 policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry
6562 out a lawful directive of the Governor.

6563 B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall
6564 not be engaged in any other profession or occupation.

6565 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance
6566 with this subtitle.

6567 D. The Chief Executive Officer shall:

6568 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority
6569 and preserve at the Authority's general office all books, documents, and papers of the Authority;

6570 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be
6571 conferred or imposed upon him by law;

6572 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be
6573 necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's
6574 approval; and

6575 4. Make recommendations to the Board for legislative and regulatory changes.

6576 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief
6577 Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level
6578 or cause such a contribution to be made on his behalf.

6579 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint
6580 one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

6581 § 4.1-609. **Background investigations of Board members and Chief Executive Officer.**

6582 All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition
6583 of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national
6584 criminal history records search and to the Department of State Police for a Virginia criminal history records
6585 search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations
6586 conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who
6587 (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or
6588 authority by making or filing any report, document, or tax return required by statute or regulation that is
6589 fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to
6590 deceive any federal, state, or local government or governmental agency or governmental authority by making
6591 or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has
6592 been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to

6593 *the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately*
 6594 *preceding appointment.*

6595 **§ 4.1-610. Financial interests of Board, employees, and family members prohibited.**

6596 *No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have*
 6597 *any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or in any entity*
 6598 *that has submitted an application for a license under Chapter 8 (§ 4.1-800 et seq.). No Board member and no*
 6599 *spouse or immediate family member of a Board member shall make any contribution to a candidate for office*
 6600 *or officeholder at the local or state level or cause such a contribution to be made on his behalf.*

6601 **§ 4.1-611. Seed-to-sale tracking system.**

6602 *To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana*
 6603 *establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and*
 6604 *maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant*
 6605 *stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.*

6606 **§ 4.1-612. Moneys of Authority.**

6607 *All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-614.*

6608 **§ 4.1-613. Forms of accounts and records; audit; annual report.**

6609 *A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever*
 6610 *source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts*
 6611 *or his legally authorized representatives shall annually examine the accounts and books of the Authority. The*
 6612 *Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of*
 6613 *each year. Such report shall contain the audited annual financial statements of the Authority for the year ending*
 6614 *the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast,*
 6615 *assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions*
 6616 *of services and tangible or intangible property, any material changes to the policies and procedures issued by*
 6617 *the Authority related to procurement or personnel, and any proposed marketing activities.*

6618 *B. Notwithstanding any other provision of law, in exercising any power conferred under this subtitle, the*
 6619 *Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These*
 6620 *systems and related procedures shall be subject to review and approval by the State Comptroller. Upon*
 6621 *agreement with the State Comptroller, the Authority may report summary level detail on both payroll and*
 6622 *nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management*
 6623 *system or its successor system. Such reports shall be made in accordance with policies, procedures, and*
 6624 *directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all*
 6625 *disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel*
 6626 *reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.*

6627 **§ 4.1-614. Disposition of moneys collected by the Board.**

6628 *A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be*
 6629 *deposited to the credit of the State Treasurer in a state depository, without any deductions on account of*
 6630 *salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-*
 6631 *1802.*

6632 *All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall*
 6633 *be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries*
 6634 *and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred*
 6635 *in the administration of this subtitle.*

6636 *B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to*
 6637 *the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise*
 6638 *provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits*
 6639 *quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the*
 6640 *administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment*
 6641 *owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection*
 6642 *A, net profits shall be appropriated in the general appropriation act as follows:*

- 6643 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
 6644 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4;
 6645 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall
 6646 distribute such appropriated funds to community services boards for the purpose of administering substance
 6647 use disorder prevention and treatment programs; and
 6648 4. Five percent to public health programs, including public awareness campaigns that are designed to
 6649 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the
 6650 public of other potential risks.
- 6651 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local
 6652 marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs,
 6653 expenses, and charges authorized by this section.
- 6654 D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in
 6655 subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name
 6656 "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which
 6657 they were collected. If revenues were collected from a marijuana establishment located in more than one
 6658 locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall
 6659 be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and
 6660 assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.
- 6661 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper
 6662 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged
 6663 to the account of each such locality under the special fund created by this section. If errors are made in any
 6664 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some
 6665 other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.
- 6666 **§ 4.1-615. Leases and purchases of property by the Board.**
- 6667 The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle
 6668 are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Authority shall be exempt from
 6669 the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and
 6670 Buildings in relation to leases of real property into which it enters.
- 6671 **§ 4.1-616. Exemptions from taxes or assessments.**
- 6672 The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of
 6673 the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living
 6674 conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes
 6675 the performance of essential governmental functions, the Authority shall not be required to pay any taxes or
 6676 assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon
 6677 the income therefrom, including sales and use taxes on the tangible personal property used in the operations
 6678 of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting
 6679 on the premises of any property of the Authority businesses for which local or state taxes would otherwise be
 6680 required.
- 6681 **§ 4.1-617. Exemption of Authority from personnel and procurement procedures; information systems;
 6682 etc.**
- 6683 A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement
 6684 Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this
 6685 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
 6686 seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.
- 6687 B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction
 6688 and the disposition of surplus materials shall be exempt from:
- 6689 1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from
 6690 the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;
 6691 2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117;
 6692 and

6693 3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods,
 6694 services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2,
 6695 regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Department
 6696 of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the
 6697 oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for
 6698 the construction of the Authority's capital projects and construction-related professional services under § 2.2-
 6699 1132.

6700 C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services,
 6701 including information technology goods and services; (ii) shall use directly or by integration or interface the
 6702 Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the
 6703 Authority and the Department of General Services; and (iii) shall post on the Department of General Services'
 6704 central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices,
 6705 and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on
 6706 one website.

6707 **§ 4.1-618. Reversion to the Commonwealth.**

6708 In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors,
 6709 shall revert to the Commonwealth.

6710 **§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
 6711 **communications as alternative to regular mail; limitation.**

6712 A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and such mail
 6713 or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is
 6714 sent by the Board may be sent by regular mail.

6715 B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to send
 6716 any mail, notice, or other official communication by regular mail to persons licensed under Chapter 8 (§ 4.1-
 6717 800 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official
 6718 communication by email, text message, or other electronic means to the email address, telephone number, or
 6719 other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof
 6720 of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by
 6721 the Board confirming the electronic delivery.

6722 C. No notice required by § 4.1-903 to a licensee of a hearing that may result in the suspension or revocation
 6723 of his license or the imposition of a civil penalty shall be sent by the Board by email, text message, or other
 6724 electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty
 6725 be sent by the Board by email, text message, or other electronic means.

6726 **§ 4.1-620. Reports and accounting systems of Board; auditing books and records.**

6727 A. The Board shall make reports to the Governor as he may require covering the administration and
 6728 enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor, the General
 6729 Assembly, and the Chief Executive Officer of the Authority on or before December 15 each year, which shall
 6730 contain:

- 6731 1. The number of state licenses of each category issued pursuant to this subtitle;
- 6732 2. Demographic information concerning the licensees;
- 6733 3. A description of enforcement and disciplinary actions taken against licensees;
- 6734 4. A statement of revenues and expenses related to the implementation, administration, and enforcement of
 6735 this subtitle;
- 6736 5. A statement showing the taxes collected under this subtitle during the year;
- 6737 6. General information and remarks about the working of the cannabis control laws within the
 6738 Commonwealth;
- 6739 7. A description of the efforts undertaken by the Board to promote diverse business ownership within the
 6740 cannabis industry; and
- 6741 8. Any other information requested by the Governor.

6742 *B. The Board shall maintain an accounting system in compliance with generally accepted accounting*
 6743 *principles and approved in accordance with § 2.2-803.*

6744 *C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit*
 6745 *of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the*
 6746 *Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations*
 6747 *shall be borne by the Board. The Board may order such other audits as it deems necessary.*

6748 **§ 4.1-621. Certain information not to be made public.**

6749 *Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records*
 6750 *required pursuant to this subtitle; (ii) the purchase orders and invoices for retail marijuana or retail marijuana*
 6751 *products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from, refunded to, or*
 6752 *adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the*
 6753 *Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected*
 6754 *pursuant to this subtitle and to purchase orders and invoices for retail marijuana or retail marijuana products*
 6755 *filed with the Board by marijuana wholesaler licensees.*

6756 *Nothing contained in this section shall prohibit the use or release of such information or documents by the*
 6757 *Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,*
 6758 *or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall*
 6759 *this section prohibit the Board or its employees from compiling and disseminating to any member of the public*
 6760 *aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal*
 6761 *or disclose tax collection from any identified licensee; (b) the total amount of retail marijuana or retail*
 6762 *marijuana products sales in the Commonwealth by marijuana wholesaler licensees collectively; or (c) the total*
 6763 *amount of purchases or sales submitted by licensees, provided that such information does not identify the*
 6764 *licensee.*

6765 **§ 4.1-622. Criminal history records check required on certain employees; reimbursement of costs.**

6766 *All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds*
 6767 *or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.*

6768 *The Board shall develop policies regarding the employment of persons who have been convicted of a felony*
 6769 *or a crime involving moral turpitude.*

6770 *The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted*
 6771 *pursuant to this section.*

6772 **§ 4.1-623. Employees of the Authority.**

6773 *Employees of the Authority shall be considered employees of the Commonwealth. Employees of the*
 6774 *Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as*
 6775 *authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related*
 6776 *insurance and other benefits, including premium conversion and flexible benefits, available to state employees*
 6777 *as provided by law. Employees of the Authority shall be employed on such terms and conditions as established*
 6778 *by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance*
 6779 *rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit*
 6780 *discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical*
 6781 *conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other*
 6782 *provision of law, the Board shall develop, implement, and administer a paid leave program, which may include*
 6783 *annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in*
 6784 *accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.*

6785 **§ 4.1-624. Police power of members, agents, and employees of Board.**

6786 *Members of the Board are vested, and such agents and employees of the Board designated by it shall be*
 6787 *vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth*
 6788 *as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2;*
 6789 *and (iv) § 58.1-1037.*

6790 **§ 4.1-625. Liability of Board members; suits by and against Board.**

6791 A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties
6792 as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of
6793 Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

6794 B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond
6795 to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the
6796 proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the
6797 names of, the members of the Board.

6798 **§ 4.1-626. Counsel for members, agents, and employees of Board.**

6799 If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise prosecuted on any
6800 charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ
6801 special counsel approved by the Attorney General to defend such member, agent, or employee. The
6802 compensation for special counsel employed pursuant to this section, shall, subject to the approval of the
6803 Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle
6804 are paid.

6805 **§ 4.1-627. Hearings; representation by counsel.**

6806 Any licensee or applicant for any license granted by the Board shall have the right to be represented by
6807 counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required
6808 to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-
6809 examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and
6810 make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-
6811 3904.

6812 **§ 4.1-628. Hearings; allowances to witnesses.**

6813 Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses
6814 as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be
6815 paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

6816 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

6817 A. The governing body of a locality may, by resolution, petition the circuit court for the locality for a
6818 referendum on the question of whether retail marijuana stores should be prohibited in the locality.

6819 Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on
6820 the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-
6821 682, but in no event shall such date be more than 90 days from the date the order is issued. The clerk of the
6822 circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality 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 town)?"

6826 The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the
6827 certifications required by such section, the secretary of the local electoral board shall certify the results of the
6828 referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing body of
6829 the locality.

6830 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of whether retail
6831 marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to operate within
6832 the locality 60 days after the results are certified or on January 1, 2024, whichever is later, and no subsequent
6833 referendum may be held pursuant to this section within such locality.

6834 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether retail
6835 marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in the locality
6836 effective January 1 of the year immediately following the referendum. A referendum on the same question may
6837 be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four years following the
6838 date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of this
6839 section.

6840 C. When any referendum is held pursuant to this section in a town, separate and apart from the county in
 6841 which such town or a part thereof is located, such town shall be treated as being separate and apart from such
 6842 county. When any referendum is held pursuant to this section in a county, any town located within such county,
 6843 shall be treated as being part of such county.

6844 D. The legality of any referendum held pursuant to this enactment shall be subject to the inquiry,
 6845 determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the
 6846 complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the
 6847 results of the referendum are certified and setting out fully the grounds of contest. The complaint and the
 6848 proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654 of the Code of Virginia,
 6849 and the judgment of the court entered of record shall be a final determination of the legality of the referendum.

6850 **§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana products.**

6851 A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance or
 6852 resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution,
 6853 handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail marijuana
 6854 products in the Commonwealth.

6855 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that prohibits the
 6856 acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty for violation
 6857 thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail marijuana
 6858 products containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public
 6859 street.

6860 C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and
 6861 enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and
 6862 land use requirements and business license requirements.

6863 D. Except as provided in this section, all local acts, including charter provisions and ordinances of
 6864 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of
 6865 such inconsistency.

6866 **§ 4.1-631. Local ordinances regulating time of sale of retail marijuana and retail marijuana products.**

6867 The governing body of each county may adopt ordinances effective in that portion of such county not
 6868 embraced within the corporate limits of any incorporated town, and the governing body of each city and town
 6869 may adopt ordinances effective in such city or town, fixing hours during which retail marijuana and retail
 6870 marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for
 6871 violations of any such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with
 6872 a right of appeal pursuant to § 16.1-106.

6873 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing
 6874 body adopting it and transmitted to the Board.

6875 On and after the effective date of any ordinance adopted pursuant to this section, no retail marijuana store
 6876 shall sell retail marijuana and retail marijuana products during the hours limited by the ordinance.

6877 **CHAPTER 7.**

6878 **ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.**

6879 **§ 4.1-700. Exemptions from licensure.**

6880 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
 6881 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§
 6882 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered
 6883 with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of
 6884 Title 3.2; (iii) a manufacturer of an industrial hemp extract or food containing an industrial hemp extract
 6885 operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2 and subsection B of §
 6886 3.2-4122; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing
 6887 in this subtitle shall be construed to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining
 6888 a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent
 6889 a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions

6890 of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or
 6891 retail licensee from operating on the licensed premises a pharmaceutical processing facility in accordance with
 6892 Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or an industrial hemp processing facility in
 6893 accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

6894 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

6895 The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or retail
 6896 marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose
 6897 of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board
 6898 regulation committed by such agents or employees in connection with their employment.

6899 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil**
 6900 **penalties.**

6901 A. Each license granted by the Board shall designate the place where the business of the licensee will be
 6902 carried on. A separate license shall be required for each separate place of business.

6903 B. No license shall be transferable from one person to another or from one location to another. The Board
 6904 may permit a licensee to amend the classification of an existing license without complying with the posting and
 6905 publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the
 6906 privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade
 6907 the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana store licensee is sold
 6908 to a new entity, or (iii) there is a change of business at the premises of a retail marijuana store licensee, the
 6909 Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of
 6910 business, require the licensee to comply with any or all of the requirements of § 4.1-1000. If the Board fails to
 6911 exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The
 6912 licensee shall submit such written notice to the secretary of the Board.

6913 C. Each license shall be posted in a location conspicuous to the public at the place where the licensee
 6914 carries on the business for which the license is granted.

6915 D. The privileges conferred by any license granted by the Board shall continue until the last day of the
 6916 twelfth month next ensuing or the last day of the designated month and year of expiration, except the license
 6917 may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or
 6918 by operation of law, voluntary surrender, or order of the Board.

6919 The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the
 6920 fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the
 6921 basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided
 6922 in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent
 6923 of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such
 6924 period.

6925 The Board may permit a licensee who fails to pay:

6926 1. The required license fee covering the continuation or reissuance of his license by midnight of the fifteenth
 6927 day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the fee in lieu
 6928 of posting and publishing notice and reapplying, provided payment of the fee is made within 30 days following
 6929 that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is greater; and

6930 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing notice
 6931 and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in
 6932 subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

6933 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

6934 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

6935 A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete, accurate,
 6936 and separate records in accordance with Board regulations of all marijuana and marijuana products it
 6937 purchased, manufactured, sold, or shipped.

6938 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance
 6939 with Board regulations of all purchases of retail marijuana products, the prices charged such licensee therefor,

6940 *and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall*
 6941 *also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee*
 6942 *shall also keep an accurate account of daily sales, showing quantities of retail marijuana products sold and the*
 6943 *total price charged by it therefor. Except as otherwise provided in subsections D and E, such account need not*
 6944 *give the names or addresses of the purchasers thereof, except as may be required by Board regulation.*

6945 *Notwithstanding the provisions of subsection F, electronic records of licensed retail marijuana stores may*
 6946 *be stored off site, provided that such records are readily retrievable and available for electronic inspection by*
 6947 *the Board or its special agents at the licensed premises. However, in the case that such electronic records are*
 6948 *not readily available for electronic inspection on the licensed premises, the licensee may obtain Board*
 6949 *approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board*
 6950 *within three business days or less, as determined by the Board, after a request is made to inspect the records.*

6951 *C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records in*
 6952 *accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured, sold,*
 6953 *or shipped.*

6954 *D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in*
 6955 *accordance with Board regulations of all marijuana and marijuana products it developed, researched, or tested*
 6956 *and the names and addresses of the licensees or persons who submitted the marijuana or marijuana product to*
 6957 *the marijuana testing facility.*

6958 *E. The Board and its special agents shall be allowed free access during reasonable hours to every place in*
 6959 *the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting such*
 6960 *place and all records, invoices, and accounts therein.*

6961 *For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable*
 6962 *hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public*
 6963 *substantially during the same hours, "reasonable hours" means the business hours when the licensee is open to*
 6964 *the public. At any other time of day, if the retail marijuana store licensee's records are not available for*
 6965 *inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request*
 6966 *is made to inspect the records.*

6967 CHAPTER 8.

6968 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

6969 § 4.1-800. *Marijuana cultivation facility license.*

6970 *A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize*
 6971 *the licensee to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana*
 6972 *plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana,*
 6973 *immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to*
 6974 *transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana*
 6975 *cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities;*
 6976 *and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating*
 6977 *marijuana at home for personal use:*

6978 *1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than a certain*
 6979 *number of marijuana plants or marijuana plants in an area not larger than a certain number of square feet, as*
 6980 *determined by the Board;*

6981 *2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana plants with*
 6982 *a tetrahydrocannabinol concentration of no more than one percent, as determined post-decarboxylation.*

6983 *B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track*
 6984 *the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana*
 6985 *plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana testing*
 6986 *facility, a marijuana wholesaler, another marijuana cultivation facility, a marijuana manufacturer, a retail*
 6987 *marijuana store, or a consumer or is disposed of or destroyed.*

6988 § 4.1-801. *Marijuana manufacturing facility license.*

6989 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee to
6990 manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take
6991 possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing
6992 facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana
6993 wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

6994 B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a licensed
6995 premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana
6996 products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana
6997 or retail marijuana products.

6998 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail marijuana
6999 and retail marijuana products are manufactured shall meet all sanitary standards specified in regulations
7000 adopted by the Board. A marijuana manufacturing facility that manufactures an edible marijuana product shall
7001 comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted
7002 pursuant thereto.

7003 D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee shall
7004 track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is delivered
7005 or transferred to the marijuana manufacturing facility by a marijuana wholesaler licensee to the point the retail
7006 marijuana or retail marijuana products produced using the retail marijuana are delivered or transferred to
7007 another marijuana manufacturing facility, a marijuana testing facility, or a marijuana wholesaler or are
7008 disposed of or destroyed.

7009 **§ 4.1-802. Marijuana testing facility license.**

7010 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,
7011 research, or test retail marijuana, retail marijuana products, and other substances.

7012 B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana
7013 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana or
7014 retail marijuana product for personal use as authorized under § 4.1-1100.

7015 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana
7016 testing facility from developing, researching, or testing substances that are not marijuana or marijuana
7017 products for that facility or for another person.

7018 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and maintain
7019 accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a
7020 third-party accrediting body.

7021 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all
7022 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the
7023 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at
7024 which the marijuana or marijuana products are disposed of or destroyed.

7025 F. A person that has an interest in a marijuana testing facility license shall not have any interest in a
7026 licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana
7027 wholesaler, or a licensed retail marijuana store.

7028 **§ 4.1-803. Marijuana wholesaler license.**

7029 A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to purchase or
7030 take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana
7031 seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana
7032 wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature
7033 marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility,
7034 retail marijuana store, or another marijuana wholesaler.

7035 B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and retail
7036 marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

7037 C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track the retail
7038 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which

7039 *the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred to the marijuana*
 7040 *wholesaler to the point at which the retail marijuana, retail marijuana products, plants, or seeds are transferred*
 7041 *or sold to a marijuana manufacturer, marijuana wholesaler, retail marijuana store, or marijuana testing*
 7042 *facility or are disposed of or destroyed.*

7043 **§ 4.1-804. Retail marijuana store license.**

7044 *A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or*
 7045 *take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds*
 7046 *from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell*
 7047 *retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers on*
 7048 *premises approved by the Board.*

7049 *B. Retail marijuana stores shall be operated in accordance with the following provisions:*

7050 *1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.*

7051 *2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products, immature*
 7052 *marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not*
 7053 *be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds*
 7054 *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 products as determined by regulation promulgated by the Board during a single*
 7061 *transaction to one person.*

7062 *4. A retail marijuana store shall not:*

7063 *a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by the*
 7064 *subtitle;*

7065 *b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to any*
 7066 *person when at the time of such sale he knows or has reason to believe that the person attempting to purchase*
 7067 *the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or*
 7068 *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 *5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail*
 7071 *marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which*
 7072 *the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are delivered*
 7073 *or transferred to the retail marijuana store to the point at which the retail marijuana, retail marijuana products,*
 7074 *immature marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana*
 7075 *testing facility, or disposed of or destroyed.*

7076 *6. 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 pharmaceutical processor that has been issued a permit*
 7088 *by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act shall authorize*

7089 *the licensee to exercise any privileges set forth in subsection A at the place of business designated in the license,*
7090 *which, notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five*
7091 *additional retail establishments of the licensee. Such additional retail establishments shall be located at the five*
7092 *cannabis dispensing facilities for which the Board of Health has issued a permit pursuant to subsection B of §*
7093 *54.1-3442.6 in the health service area in which the pharmaceutical processing facility is located.*

7094 **§ 4.1-805. Multiple licenses awarded to one person prohibited.**

7095 *A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership*
7096 *interest or any other type of financial interest, including but not limited to being an investor or serving in a*
7097 *management position.*

7098 *B. Except as otherwise permitted by Board regulation promulgated pursuant to subdivision C 4 of § 4.1-*
7099 *606, no person shall be granted or have interest in a license in more than one of the following license categories:*
7100 *marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license,*
7101 *retail marijuana store license, or marijuana testing facility license.*

7102 *C. Notwithstanding subsection B and any other provision of law to the contrary, any (i) pharmaceutical*
7103 *processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et*
7104 *seq.) of the Drug Control Act or (ii) industrial hemp processor registered with the Commissioner of Agriculture*
7105 *and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 shall be permitted to possess*
7106 *one or any combination of the following licenses: marijuana cultivation facility license, marijuana*
7107 *manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. However, no*
7108 *pharmaceutical processor or industrial hemp processor that has been issued a marijuana cultivation facility*
7109 *license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store*
7110 *license shall be issued a marijuana testing facility license or have any interest in a marijuana testing facility*
7111 *licensee. Any pharmaceutical processor or industrial hemp processor who wishes to possess a license in more*
7112 *than one license category pursuant to this subsection shall (a) pay a \$1 million fee to the Board and (b) submit*
7113 *a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support Team (the Support*
7114 *Team) for approval and, upon approval, implement such plan in accordance with the requirements set by the*
7115 *Support Team. Fees collected by the Board pursuant to this subsection shall be allocated to (1) the Virginia*
7116 *Cannabis Equity Loan Fund, (2) the Virginia Cannabis Equity Reinvestment Fund, or (3) a program, as*
7117 *determined by the Board, that provides job training services to persons recently incarcerated.*

7118 **§ 4.1-806. Temporary permits required in certain instances.**

7119 *A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured*
7120 *creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has*
7121 *become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana*
7122 *establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for*
7123 *such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges*
7124 *of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may*
7125 *be issued in advance, conditioned on the requirements in this subsection.*

7126 *B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any*
7127 *cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary permit*
7128 *shall be effective upon service of the order of revocation upon the permittee or upon the expiration of three*
7129 *business days after the order of the revocation has been mailed to the permittee at either his residence or the*
7130 *address given for the business in the permit application. No further notice shall be required.*

7131 **§ 4.1-807. Licensee shall maintain possession of premises.**

7132 *As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of the*
7133 *marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement,*
7134 *or other arrangement for possession of the premises or by virtue of ownership of the premises. If the licensee*
7135 *fails to maintain possession of the licensed premises, the license shall be revoked by the Board.*

7136 **§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee by licensee,**
7137 **agent, or employee.**

7138 *No marijuana or marijuana products may be used or consumed on the premises of a licensee by the licensee*
7139 *or any agent or employee of the licensee, except for certain sampling for quality control purposes that may be*
7140 *permitted by Board regulation.*

7141 **§ 4.1-809. Conditions under which the Board may refuse to grant licenses.**

7142 *The Board may refuse to grant any license if it has reasonable cause to believe that:*

7143 *1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an*
7144 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the*
7145 *applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock,*
7146 *or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or*
7147 *more of the membership interest of the limited liability company:*

7148 *a. Is not 21 years of age or older;*

7149 *b. Is not a resident of the Commonwealth;*

7150 *c. Has been convicted in any court of any crime or offense involving moral turpitude under the laws of any*
7151 *state or of the United States within seven years of the date of the application or has not completed all terms of*
7152 *sentencing and probation resulting from any such felony conviction;*

7153 *d. Knowingly employs someone younger than 21 years of age;*

7154 *e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership*
7155 *interests in the business that have not been disclosed;*

7156 *f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed*
7157 *to be licensed;*

7158 *g. Has misrepresented a material fact in applying to the Board for a license;*

7159 *h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or*
7160 *governmental agency or authority, by making or filing any report, document, or tax return required by statute*
7161 *or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived*
7162 *or attempted to deceive the Board, or any federal, state, or local government or governmental agency or*
7163 *authority, by making or maintaining business records required by statute or regulation that are false or*
7164 *fraudulent;*

7165 *i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his*
7166 *application for a license is pending;*

7167 *j. Is a police officer with police authority in the political subdivision within which the establishment*
7168 *designated in the application is located;*

7169 *k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 8 (§ 4.1-800 et*
7170 *seq.) of Title 4.1 or a retailer of tobacco or tobacco products;*

7171 *l. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by*
7172 *the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title*
7173 *54.1; or*

7174 *m. Is physically unable to carry on the business for which the application for a license is filed or has been*
7175 *adjudicated incapacitated.*

7176 *2. The place to be occupied by the applicant:*

7177 *a. Does not conform to the requirements of the governing body of the county, city, or town in which such*
7178 *place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements*
7179 *established by the laws of the Commonwealth or by Board regulation;*

7180 *b. Is so located that granting a license and operation thereunder by the applicant would result in violations*
7181 *of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating*
7182 *to peace and good order;*

7183 *c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial school*
7184 *or institution of higher education; public or private playground or other similar recreational facility; child day*
7185 *program; substance use disorder treatment facility; or federal, state, or local government-operated facility that*
7186 *the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct*
7187 *of the affairs of such facilities, programs, or institutions;*

7188 *d. Is so located with respect to any residence or residential area that the operation of such place under*
 7189 *such license will adversely affect real property values or substantially interfere with the usual quietude and*
 7190 *tranquility of such residence or residential area;*

7191 *e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an*
 7192 *existing retail marijuana store; or*

7193 *f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement*
 7194 *officers and special agents of the Board are prevented from ready access to and reasonable observation of any*
 7195 *room or area within which retail marijuana or retail marijuana products are to be sold.*

7196 *Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or premises*
 7197 *until the final stage of the license approval process.*

7198 *3. The number of licenses existing in the locality is such that the granting of a license is detrimental to the*
 7199 *interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider the (i)*
 7200 *criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in*
 7201 *the community; (ii) character of, population of, number of similar licenses, and number of all licenses existent*
 7202 *in the particular county, city, or town and the immediate neighborhood concerned; (iii) effect that a new license*
 7203 *may have on such county, city, town, or neighborhood in conforming with the purposes of this subtitle; and (iv)*
 7204 *objections, if any, that may have been filed by a local governing body or local residents.*

7205 *4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political*
 7206 *subdivision thereof that warrants refusal by the Board to grant any license.*

7207 *5. The Board is not authorized under this subtitle to grant such license.*

7208 **§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.**

7209 *The Board shall refuse to grant any license to any member or employee of the Board or to any corporation*
 7210 *or other business entity in which such member or employee is a stockholder or has any other economic interest.*

7211 *Whenever any other elected or appointed official of the Commonwealth or any political subdivision thereof*
 7212 *applies for such a license or continuance thereof, he shall state on the application the official position he holds,*
 7213 *and whenever a corporation or other business entity in which any such official is a stockholder or has any other*
 7214 *economic interest applies for such a license, it shall state on the application the full economic interests of each*
 7215 *such official in such corporation or other business entity.*

7216 **§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**

7217 *A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial review*
 7218 *in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsection B or*
 7219 *C. Such review shall extend to the entire evidential record of the proceedings provided by the Board in*
 7220 *accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of*
 7221 *the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,*
 7222 *stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor*
 7223 *injunction shall lie in any such case.*

7224 *B. The Board may refuse a hearing on any application for the granting of any retail marijuana store license,*
 7225 *provided that such:*

7226 *1. License for the applicant has been refused or revoked within a period of 12 months;*

7227 *2. License for any premises has been refused or revoked at that location within a period of 12 months; or*

7228 *3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the*
 7229 *Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending*
 7230 *and adjudicated charge, either before the Board or in any court, against the licensee alleging a violation of*
 7231 *this subtitle.*

7232 *C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of*
 7233 *expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the*
 7234 *Board may refuse a hearing on an application for a new license until after the date on which the suspension*
 7235 *period would have been executed had the license not have been permitted to expire.*

7236 **CHAPTER 9.**

7237 **ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.**

7238 § 4.1-900. Grounds for which Board may suspend or revoke licenses.

7239 *The Board may suspend or revoke any license if it has reasonable cause to believe that:*

7240 *1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an*
7241 *association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee*
7242 *is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the*
7243 *licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the*
7244 *membership interest of the limited liability company:*

7245 *a. Has misrepresented a material fact in applying to the Board for such license;*

7246 *b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903,*
7247 *has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter*
7248 *13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused*
7249 *to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the*
7250 *conditions or restrictions of the license granted by the Board;*

7251 *c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under*
7252 *the laws of any state, or of the United States;*

7253 *d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other*
7254 *persons have ownership interests in the business that have not been disclosed;*

7255 *e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted*
7256 *under the license granted by the Board;*

7257 *f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed*
7258 *premises;*

7259 *g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a*
7260 *meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill*
7261 *repute, or has allowed any form of illegal gambling to take place upon such premises;*

7262 *h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such*
7263 *licensed premises;*

7264 *i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product*
7265 *except as provided under this subtitle;*

7266 *j. Is physically unable to carry on the business conducted under such license or has been adjudicated*
7267 *incapacitated;*

7268 *k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;*

7269 *l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly*
7270 *allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled*
7271 *substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms*
7272 *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*
7273 *Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to*
7274 *commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control*
7275 *Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed*
7276 *business that facilitates the commission of any of the offenses set forth herein;*

7277 *m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises*
7278 *immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of*
7279 *public property immediately adjacent to the licensed premises from becoming a place where patrons of the*
7280 *establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1*
7281 *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*
7282 *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*
7283 *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*
7284 *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*
7285 *that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;*

7286 *n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily*
7287 *injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately*

7288 adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property
7289 immediately adjacent to the licensed premises;

7290 o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated
7291 by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title
7292 54.1; or

7293 p. Has refused to (i) remain neutral regarding any union organizing efforts by employees, including card
7294 check recognition and union access to employees; (ii) pay employees prevailing wages as determined by the
7295 U.S. Department of Labor; or (iii) classify no more than 10 percent of its workers as independent contractors
7296 and such workers are not owners in a worker-owned cooperative.

7297 2. The place occupied by the licensee:

7298 a. Does not conform to the requirements of the governing body of the county, city, or town in which such
7299 establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar
7300 requirements established by the laws of the Commonwealth or by Board regulations;

7301 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

7302 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
7303 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly
7304 used or distributed. The Board may consider the general reputation in the community of such establishment in
7305 addition to any other competent evidence in making such determination.

7306 3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of
7307 the United States by prices charged or otherwise.

7308 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the
7309 facts been known.

7310 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties
7311 or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified
7312 by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding
7313 amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect
7314 to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same
7315 locality to settle the outstanding liability.

7316 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its
7317 agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed
7318 premises in the Commonwealth.

7319 7. Any other cause authorized by this subtitle.

7320 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

7321 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative
7322 Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has
7323 reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence
7324 of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed
7325 premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent
7326 to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that
7327 summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

7328 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct
7329 an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of
7330 violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention
7331 to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension
7332 shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board
7333 for a restricted license pending the results of the formal investigation and proceedings for disciplinary review.
7334 If the Board determines that a restricted license is warranted, the Board shall have discretion to impose
7335 appropriate restrictions based on the facts presented.

7336 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal
7337 investigation. The formal investigation shall be completed within 10 days of its commencement and the findings

7338 reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the
 7339 Board determines that suspension of the license is warranted, a hearing shall be held within five days of the
 7340 completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing.
 7341 If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be
 7342 vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and
 7343 heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10
 7344 days of the conclusion of the appeal hearing.

7345 D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of
 7346 the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately
 7347 upon service.

7348 E. This section shall not apply to temporary permits granted under § 4.1-806.

7349 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

7350 The Board shall suspend or revoke any license if it finds that:

7351 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a
 7352 gambling device, upon the premises for which the Board has granted a retail marijuana store license.

7353 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government
 7354 or governmental agency or authority, by making or filing any report, document, or tax return required by statute
 7355 or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has
 7356 willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental
 7357 agency or authority, by making or maintaining business records required by statute or regulation that are false
 7358 or fraudulent.

7359 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

7360 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
 7361 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
 7362 Administrative Process Act (§ 2.2-4000 et seq.).

7363 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit
 7364 the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or
 7365 copies thereof or the substance of any oral statements made by the licensee or a previous or present employee
 7366 of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which
 7367 the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee, and
 7368 (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof,
 7369 that are within the possession, custody, or control of the Board and upon which the Board intends to rely as
 7370 evidence in any adversarial proceeding under this subtitle against the licensee. In addition, any subpoena for
 7371 the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-
 7372 604 shall provide for the production of the documents sought within 10 working days, notwithstanding anything
 7373 to the contrary in § 4.1-604.

7374 If the Board fails to provide for inspection or copying under this section for the licensee after a written
 7375 request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully
 7376 been entitled to inspect or copy under this section.

7377 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be subject
 7378 to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall
 7379 extend to the entire evidential record of the proceedings provided by the Board in accordance with the
 7380 Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.
 7381 Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed
 7382 or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction
 7383 shall lie in any such case.

7384 B. In suspending any license the Board may impose, as a condition precedent to the removal of such
 7385 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
 7386 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and
 7387 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding

7388 \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or
 7389 \$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the
 7390 second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana
 7391 products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing
 7392 consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to
 7393 exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation
 7394 and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of
 7395 the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may
 7396 also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in
 7397 investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension
 7398 or civil penalty incurred.

7399 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his
 7400 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent
 7401 agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a)
 7402 admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under
 7403 the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating
 7404 under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters,
 7405 (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4)
 7406 proceed to a hearing.

7407 D. The Board shall, by regulation or written order:

7408 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial
 7409 hearing;

7410 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
 7411 suspension may be accepted for a first offense occurring within three years immediately preceding the date of
 7412 the violation;

7413 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty
 7414 for any retail marijuana store licensee where the licensee can demonstrate that it provided to its employees
 7415 marijuana seller training certified in advance by the Board;

7416 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license
 7417 and the civil charge acceptable in lieu of such suspension; and

7418 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee
 7419 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall
 7420 be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board
 7421 regulations.

7422 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products on**
 7423 **hand; termination.**

7424 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any licensee
 7425 at the time the license of such person is suspended or revoked may be disposed of as follows:

7426 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana products
 7427 upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

7428 2. Provided to the Virginia State Police to be destroyed.

7429 B. All retail marijuana or retail marijuana products owned by or in the possession of any person whose
 7430 license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this
 7431 section within 60 days from the date of such suspension or revocation.

7432 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by persons
 7433 whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance
 7434 with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

7435 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any person
 7436 described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to
 7437 the Commonwealth in accordance with the provisions of § 4.1-1304.

CHAPTER 10.

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

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7439
7440 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**
7441 A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an
7442 application on forms provided by the Board and a statement in writing by the applicant swearing and affirming
7443 that all of the information contained therein is true.
7444 Applicants for licenses for establishments that are otherwise required to obtain an inspection by the
7445 Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending
7446 request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an
7447 inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application
7448 or inspection, such license shall authorize the licensee to purchase retail marijuana, retail marijuana products,
7449 immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle; however, the
7450 licensee shall not sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
7451 seeds until an inspection is completed.
7452 B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of his
7453 application with the Board on the front door of the building, place, or room where he proposes to engage in
7454 such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain
7455 such information as required by the Board, including a statement that any objections shall be submitted to the
7456 Board not more than 30 days following initial posting of the notice required pursuant to this subsection.
7457 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a
7458 newspaper published in or having a general circulation in the county, city, or town wherein such applicant
7459 proposes to engage in such business. Such notice shall contain such information as required by the Board,
7460 including a statement that any objections to the issuance of the license be submitted to the Board not later than
7461 30 days from the date of the initial newspaper publication.
7462 The Board shall conduct a background investigation, to include a criminal history records search, which
7463 may include a fingerprint-based national criminal history records search, on each applicant for a license.
7464 However, the Board may waive, for good cause shown, the requirement for a criminal history records search
7465 and completed personal data form for officers, directors, nonmanaging members, or limited partners of any
7466 applicant corporation, limited liability company, or limited partnership. In considering criminal history record
7467 information, the Board shall not disqualify an applicant because of a past conviction for a marijuana-related
7468 offense.
7469 The Board shall notify the local governing body of each license application through the town manager, city
7470 manager, county administrator, or other designee of the locality. Local governing bodies shall submit
7471 objections to the granting of a license within 30 days of the filing of the application.
7472 C. Each applicant shall pay the required application fee at the time the application is filed, except that such
7473 fee shall be waived or discounted for qualified social equity applicants pursuant to regulations promulgated by
7474 the Board. The license application fee shall be determined by the Board and shall be in addition to the actual
7475 cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal
7476 Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
7477 Criminal Records Exchange for each criminal history records search required by the Board. Application fees
7478 shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.
7479 D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all
7480 licensees shall file and maintain with the Board a current, accurate record of the information required by the
7481 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with
7482 Board regulations.
7483 E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the Board.
7484 Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as
7485 otherwise provided by law.

7486 *The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for*
7487 *applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent and*
7488 *multiplied by the number of months for which the permit is granted.*

7489 *F. The Board shall have the authority to increase state license fees. The Board shall set the amount of such*
7490 *increases on the basis of the consumer price index and shall not increase fees more than once every three years.*
7491 *Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the*
7492 *general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for*
7493 *any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November*
7494 *1 in any year in which the Board has decided to increase state license fees, and such increases shall become*
7495 *effective July 1 of the following year.*

7496 **§ 4.1-1001. Fees for state licenses.**

7497 *A. The annual fees on state licenses shall be determined by the Board.*

7498 *B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal*
7499 *to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of*
7500 *months in the license period, and then increased by five percent. Such fee shall not be refundable, except as*
7501 *provided in § 4.1-1002.*

7502 *C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant*
7503 *license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall be*
7504 *liable to state merchants' license taxation and other state taxation.*

7505 *D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in*
7506 *person from the Board if such license is available for purchase online.*

7507 **§ 4.1-1002. Refund of state license fee.**

7508 *A. The Board may correct erroneous assessments made by it against any person and make refunds of any*
7509 *amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are subsequently*
7510 *refused or application therefor withdrawn, and to allow credit for any license fees paid by any licensee for any*
7511 *license that is subsequently merged or changed into another license during the same license period. No refund*
7512 *shall be made of any such amount, however, unless made within three years from the date of collection of the*
7513 *same.*

7514 *B. In any case where a licensee has changed its name or form of organization during a license period*
7515 *without any change being made in its ownership, and because of such change is required to pay an additional*
7516 *license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of*
7517 *the required license fee for such period.*

7518 *C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state*
7519 *license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is*
7520 *destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural*
7521 *disaster or phenomenon.*

7522 *D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys*
7523 *appropriated to the Board and in the manner prescribed in § 4.1-614.*

7524 **§ 4.1-1003. Marijuana tax; exceptions.**

7525 *A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana*
7526 *products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail*
7527 *marijuana products. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-600 et seq.) of*
7528 *Title 58.1 or any other provision of federal, state, or local law.*

7529 *B. The tax shall not apply to any sale:*

7530 *1. From a marijuana establishment to another marijuana establishment.*

7531 *2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et*
7532 *seq.) of the Drug Control Act.*

7533 *3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112*
7534 *et seq.) of Title 3.2.*

7535 4. *Of industrial hemp extract or food containing an industrial hemp extract under the provisions of Article*
7536 *5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.*

7537 C. *All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.*

7538 **§ 4.1-1004. Optional local marijuana tax.**

7539 A. *Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax*
7540 *shall be in addition to any local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, any food*
7541 *and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise*
7542 *tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a*
7543 *locality shall not impose any other tax on a sale taxable under § 4.1-1003.*

7544 B. *If a town imposes a tax under this section, any tax imposed by its surrounding county under this section*
7545 *shall not apply within the limits of the town.*

7546 C. *Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law*
7547 *on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the*
7548 *authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part*
7549 *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*
7550 *law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable*
7551 *under § 4.1-1003 in its taxable measure.*

7552 D. *Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority*
7553 *and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on*
7554 *the first day of the second month following its enactment.*

7555 E. *Any tax levied under this section shall be administered and collected by the Authority in the same manner*
7556 *as provided for the tax imposed under § 4.1-1003.*

7557 F. *All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.*

7558 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

7559 A. *For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any taxes*
7560 *due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall*
7561 *not be liable for collecting or remitting the taxes or filing a return.*

7562 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*
7563 *shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person*
7564 *filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the*
7565 *calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the*
7566 *accrual of any interest or penalties under § 4.1-1008.*

7567 C. *The Authority may accept payment by any commercially acceptable means, including cash, checks,*
7568 *credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this*
7569 *subtitle. The Board may assess a service charge for the use of a credit or debit card.*

7570 D. *Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or*
7571 *automated clearinghouse transfer information and use such information for future payments of taxes, interest,*
7572 *or penalties due under this subtitle. The Authority may assess a service charge for any payments made under*
7573 *this subsection. The Authority may procure the services of a third-party vendor for the secure storage of*
7574 *information collected pursuant to this subsection.*

7575 E. *If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of goods or*
7576 *quits the business, such person shall make a final return and payment within 15 days after the date of selling*
7577 *or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase*
7578 *money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner*
7579 *produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or*
7580 *interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided*
7581 *in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid*
7582 *on account of the operation of the business by any former owner.*

7583 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004, interest at
 7584 a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §§
 7585 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

7586 **§ 4.1-1006. Bonds.**

7587 The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the
 7588 taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such
 7589 surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become
 7590 due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the
 7591 State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the
 7592 State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order
 7593 to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above
 7594 the amounts due shall be returned to the person who deposited the securities.

7595 **§ 4.1-1007. Refunds.**

7596 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003 or
 7597 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed
 7598 to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed
 7599 voluntarily because the taxable items were defective and after notice to and approval by the Authority of such
 7600 destruction; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,
 7601 the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury
 7602 to such extent as may be proper.

7603 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items
 7604 that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify such
 7605 facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be
 7606 proper.

7607 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 or
 7608 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of
 7609 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax so
 7610 refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller after such
 7611 return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in
 7612 submitting his return.

7613 **§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

7614 A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the date
 7615 on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud
 7616 the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the
 7617 collection of such taxes may be begun without assessment, at any time within six years from such date. The
 7618 Authority shall not examine any person's records beyond the three-year period of limitations unless it has
 7619 reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a
 7620 return and failed to do so.

7621 B. If any person fails to file a return as required by this section, or files a return that is false or fraudulent,
 7622 the Authority may make an estimate for the taxable period of the taxable sales of such person and assess the
 7623 tax, plus any applicable interest and penalties. The Authority shall give such person 10 days' notice requiring
 7624 such person to provide any records as it may require relating to the business of such person for the taxable
 7625 period. The Authority may require such person or the agents and employees of such person to give testimony
 7626 or to answer interrogatories under oath administered by the Authority respecting taxable sales, the filing of the
 7627 return, and any other relevant information. If any person fails to file a required return, refuses to provide
 7628 required records, or refuses to answer interrogatories from the Authority, the Authority may make an estimated
 7629 assessment based upon the information available to it and issue a memorandum of lien under subsection C for
 7630 the collection of any taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

7631 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within
 7632 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file

7633 a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of
 7634 business is located or in which the person resides. If the person has no place of business or residence within
 7635 the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A copy of the
 7636 memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real
 7637 estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment
 7638 in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of
 7639 Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on
 7640 real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate
 7641 is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice
 7642 of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax,
 7643 penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice,
 7644 notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice
 7645 shall be given to the person at his last known address.

7646 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal
 7647 under § 4.1-1009.

7648 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
 7649 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or
 7650 paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the
 7651 doors so padlocked. If after three business days, the tax deficiency has not been satisfied or satisfactory
 7652 arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class
 7653 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event
 7654 that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person
 7655 shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

7656 4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if
 7657 the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition
 7658 within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release
 7659 of the lien within seven days after such determination is made.

7660 **§ 4.1-1009. Appeals.**

7661 Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action of the
 7662 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to review
 7663 under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential
 7664 record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An
 7665 appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the
 7666 final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court
 7667 pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

7668 **CHAPTER 11.**

7669 **POSSESSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS; PROHIBITED**
 7670 **PRACTICES GENERALLY.**

7671 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older**
 7672 **lawful; penalties.**

7673 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person
 7674 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of
 7675 marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the
 7676 Board.

7677 B. Any person who possesses on his person or in any public place marijuana or marijuana products in
 7678 excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The penalty for
 7679 any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

7680 C. With the exception of a licensee in the course of his duties related to such licensee's marijuana
 7681 establishment, any person who possesses on his person or in any public place more than one pound of marijuana
 7682 or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty

7683 of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine
7684 of not more than \$250,000, or both.

7685 D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-
7686 enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs
7687 trained in the detection of controlled substances when possession of marijuana is necessary for the performance
7688 of their duties.

7689 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

7690 A. Notwithstanding the provisions of subdivision c of § 18.2-248.1, a person 21 years of age or older may
7691 cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a
7692 household contain more than four marijuana plants. For purposes of this section, a "household" means those
7693 individuals, whether related or not, who live in the same house or other place of residence.

7694 A person may only cultivate marijuana plants pursuant to this section at such person's main place of
7695 residence.

7696 B. A person who cultivates marijuana for personal use pursuant to this section shall:

7697 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or
7698 other optical aids;

7699 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

7700 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
7701 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
7702 under this section.

7703 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of
7704 a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture
7705 marijuana concentrate from home-cultivated marijuana within or on that property or land.

7706 D. The following penalties or punishments shall be imposed on any person convicted of a violation of this
7707 section:

7708 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil
7709 penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2
7710 misdemeanor for a third and any subsequent offense;

7711 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

7712 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

7713 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not
7714 less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

7715 **§ 4.1-1101.1. Adult sharing of marijuana.**

7716 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who
7717 are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)
7718 marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii)
7719 a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii)
7720 a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

7721 B. Notwithstanding the provisions of § 18.2-248.1, no civil or criminal penalty may be imposed for adult
7722 sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana
7723 products.

7724 **§ 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products; conspiracy;
7725 penalties.**

7726 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or manufacture
7727 marijuana or marijuana products in the Commonwealth without being licensed under this subtitle to cultivate
7728 or manufacture such marijuana or marijuana products.

7729 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

7730 C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or
7731 more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy
7732 is guilty of a Class 6 felony.

7733 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

7734 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who
7735 are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)
7736 marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii)
7737 a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii)
7738 a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

7739 B. If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products except
7740 as permitted by this chapter or provided in subsection C, he is guilty of a Class 2 misdemeanor.

7741 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

7742 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not
7743 exceed one ounce or of an equivalent amount of marijuana products.

7744 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;**
7745 **penalties.**

7746 A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana
7747 products to any individual when at the time of such sale he knows or has reason to believe that the individual
7748 to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a
7749 violation of this subsection is guilty of a Class 1 misdemeanor.

7750 B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the intent to
7751 sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person who
7752 violates this subsection is guilty of a Class 1 misdemeanor.

7753 C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine, handbill, or
7754 other publication any advertisement, knowing or under circumstances where one reasonably should know, that
7755 the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to
7756 persons younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1
7757 misdemeanor.

7758 D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an
7759 individual who is younger than 21 years of age and at the time of the sale does not require the individual to
7760 present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a
7761 violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably
7762 appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia,
7763 military identification card, United States passport or foreign government visa, unexpired special identification
7764 card issued by the Department of Motor Vehicles, or any other valid government-issued identification card
7765 bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph
7766 that reasonably appears to match the appearance of the purchaser. A student identification card shall not
7767 constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation
7768 of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board
7769 shall not take administrative action against a licensee for the conduct of his employee who violates this
7770 subsection.

7771 E. No person shall be convicted of both subsections A and D for the same sale.

7772 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
7773 **exceptions; penalties; forfeiture; treatment and education programs and services.**

7774 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under § 4.1-
7775 1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or
7776 marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement
7777 officer or his agent when possession of marijuana or marijuana products is necessary in the performance of
7778 his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana
7779 products were possessed or consumed or in the county or city in which the person exhibits evidence of physical
7780 indicia of consumption of marijuana or marijuana products.

7781 *B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more*
7782 *than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available,*
7783 *that in the opinion of the court best suits the needs of the accused.*

7784 *C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court*
7785 *shall require the accused to enter a substance abuse treatment or education program or both, if available, that*
7786 *in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-*
7787 *278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.*

7788 *D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to*
7789 *this section shall be provided by (i) a program licensed by the Department of Behavioral Health and*
7790 *Developmental Services or (ii) a similar program available through a facility or program operated by or under*
7791 *contract to the Department of Juvenile Justice or a locally operated court services unit or a program funded*
7792 *through the Virginia Juvenile Community Crime Control Act (§ 16.1-209.2 et seq.). Any such substance abuse*
7793 *treatment or education program to which a person 18 years of age or older is ordered pursuant to this section*
7794 *shall be provided by (a) a program licensed by the Department of Behavioral Health and Developmental*
7795 *Services or (b) a program or services made available through a community-based probation services agency*
7796 *established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for*
7797 *the locality. When an offender is ordered to a local community-based probation services agency, the local*
7798 *community-based probation services agency shall be responsible for providing for services or referring the*
7799 *offender to education or treatment services as a condition of probation.*

7800 *E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender*
7801 *Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of*
7802 *age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor*
7803 *vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate*
7804 *or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3*
7805 *(§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student*
7806 *identification card of another person in order to establish a false identification or false age for himself to*
7807 *consume, purchase, or attempt to consume or purchase retail marijuana or retail marijuana products. Any*
7808 *person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

7809 *F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed*
7810 *contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.*

7811 *G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local*
7812 *law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from*
7813 *an administrative penalty for a violation of § 4.1-1104.*

7814 **§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue;**
7815 **exceptions; penalties; treatment and education programs and services.**

7816 *A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess,*
7817 *any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his*
7818 *agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such*
7819 *person may be prosecuted either in the county or city in which the marijuana or marijuana products were*
7820 *possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of*
7821 *consumption of marijuana or marijuana products.*

7822 *B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more*
7823 *than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available,*
7824 *that in the opinion of the court best suits the needs of the accused.*

7825 *C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court*
7826 *shall require the accused to enter a substance abuse treatment or education program or both, if available, that*
7827 *in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-*
7828 *278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.*

7829 *D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this*
7830 *section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental*

7831 *Services or (ii) a program or services made available through a community-based probation services agency*
 7832 *established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for*
 7833 *the locality. When an offender is ordered to a local community-based probation services agency, the local*
 7834 *community-based probation services agency shall be responsible for providing for services or referring the*
 7835 *offender to education or treatment services as a condition of probation.*

7836 *E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender*
 7837 *Assessment and Treatment Fund established pursuant to § 18.2-251.02.*

7838 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may not be**
 7839 **sold; penalties; forfeiture.**

7840 *A. Any person who purchases retail marijuana or retail marijuana products for another person and at the*
 7841 *time of such purchase knows or has reason to believe that the person for whom the retail marijuana or retail*
 7842 *marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.*

7843 *B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail*
 7844 *marijuana or retail marijuana products to, another person when he knows or has reason to know that such*
 7845 *person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when*
 7846 *possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class*
 7847 *1 misdemeanor.*

7848 *C. Any marijuana or marijuana products purchased in violation of this section shall be deemed contraband*
 7849 *and forfeited to the Commonwealth in accordance with § 4.1-1304.*

7850 **§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle being driven**
 7851 **upon a public highway; penalty.**

7852 *A. For the purposes of this section:*

7853 *"Open container" means any vessel containing marijuana or marijuana products, except the originally*
 7854 *sealed manufacturer's container.*

7855 *"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the*
 7856 *reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers.*

7857 *"Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of*
 7858 *a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a*
 7859 *motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the*
 7860 *transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the*
 7861 *transportation of such persons.*

7862 *B. It is unlawful for any person to use or consume marijuana or marijuana products while driving a motor*
 7863 *vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven*
 7864 *upon a public highway of the Commonwealth.*

7865 *C. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana*
 7866 *products in violation of this section if (i) an open container is located within the passenger area of the motor*
 7867 *vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed*
 7868 *and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is*
 7869 *consistent with the consumption of marijuana or marijuana products. Such person may be prosecuted either in*
 7870 *the county or city in which the marijuana was used or consumed, or in the county or city in which the person*
 7871 *exhibits evidence of physical indicia of use or consumption of marijuana.*

7872 *D. Any person who violates this section is guilty of a Class 4 misdemeanor.*

7873 **§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public place;**
 7874 **penalty.**

7875 *A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product*
 7876 *to another, whether accepted or not, at or in any public place.*

7877 *B. Any person who violates this section is subject to a civil penalty of no more than \$25 for a first offense.*
 7878 *A person who is convicted under this section of a second offense is subject to a \$25 civil penalty and shall be*
 7879 *ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of*

7880 *the court best suits the needs of the accused. A person convicted under this section of a third or subsequent*
 7881 *offense is guilty of a Class 4 misdemeanor.*

7882 **§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school grounds;**
 7883 **penalty.**

7884 *A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any*
 7885 *public elementary or secondary school during school hours or school or student activities.*

7886 *B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana*
 7887 *products in or upon the grounds of any public elementary or secondary school after school hours or school or*
 7888 *student activities.*

7889 *C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.*

7890 **§ 4.1-1110. Possessing or consuming marijuana or marijuana products while operating a school bus;**
 7891 **penalty.**

7892 *Any person who possesses or consumes marijuana or marijuana products while operating a school bus and*
 7893 *transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the*
 7894 *same meaning as provided in § 46.2-100.*

7895 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana products;**
 7896 **penalty; exception.**

7897 *A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the*
 7898 *Commonwealth.*

7899 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

7900 **§ 4.1-1112. Limitation on carrying marijuana or marijuana products in motor vehicle transporting**
 7901 **passengers for hire; penalty.**

7902 *The transportation of marijuana or marijuana products in any motor vehicle that is being used, or is*
 7903 *licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a*
 7904 *passenger who is being transported for compensation at the regular rate and fare charged other passengers.*

7905 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

7906 **§ 4.1-1113. Maintaining common nuisances; penalties.**

7907 *A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every*
 7908 *description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given away, or*
 7909 *used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.*

7910 *No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common nuisance.*

7911 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

7912 *B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not involved*
 7913 *in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305 and upon proof*
 7914 *of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or*
 7915 *any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of not*
 7916 *less than \$500 and with security to be approved by the court, conditioned that the premises shall not be used*
 7917 *for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the same*
 7918 *over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1305.*

7919 *C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or lienholder*
 7920 *of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had the right,*
 7921 *because of such unlawful use, to enter and repossess the property.*

7922 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

7923 *Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,*
 7924 *dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its original*
 7925 *status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement*
 7926 *officer into such structure; (ii) being used for the purpose of illegally manufacturing or distributing marijuana;*
 7927 *and (iii) the object of a valid search warrant shall be considered a fortified drug house. Any person who*
 7928 *maintains or operates a fortified drug house is guilty of a Class 5 felony.*

7929 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

7930 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any
7931 agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any
7932 hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold
7933 and conduct such hearing.

7934 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7935 **§ 4.1-1116. Illegal advertising; penalty; exception.**

7936 A. Except in accordance with this title and Board regulations, no person shall advertise in or send any
7937 advertising matter into the Commonwealth about or concerning marijuana other than such that may legally be
7938 manufactured or sold without a license.

7939 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana
7940 wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail
7941 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is
7942 done in accordance with § 4.1-1405 and Board regulations.

7943 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of a Class
7944 1 misdemeanor.

7945 D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the
7946 Board shall give the advertiser written notice to take corrective action to either bring the advertisement into
7947 compliance with this title and Board regulations or to remove such advertisement. If corrective action is not
7948 taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

7949 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

7950 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional
7951 facility or any person committed to the Department of Juvenile Justice in any juvenile correctional center any
7952 marijuana or marijuana products.

7953 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7954 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

7955 A. No person shall separate plant resin by butane extraction or another method that utilizes a substance
7956 with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of
7957 any residential structure.

7958 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

7959 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

7960 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in doing,
7961 or attempting to do, any of the things prohibited by this subtitle.

7962 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find
7963 the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the
7964 defendant were solely guilty of such violation.

7965 **§ 4.1-1120. Persons charged with first offense may be placed on probation; conditions; substance abuse
7966 screening, assessment treatment, and education programs or services; drug tests; costs and fees; violations;
7967 discharge.**

7968 A. Whenever any person who has not previously been convicted of any offense under this subtitle pleads
7969 guilty to or enters a plea of not guilty to an offense under this subtitle, the court, upon such plea if the facts
7970 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of
7971 the accused, may defer further proceedings and place the accused on probation upon terms and conditions.

7972 B. As a term or condition, the court shall require the accused to undergo a substance abuse assessment
7973 pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination thereof,
7974 if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon
7975 consideration of the substance abuse assessment. The program or services may be located in the judicial district
7976 in which the charge is brought or in any other judicial district as the court may provide. The services shall be
7977 provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, or a
7978 similar program that is made available through the Department of Corrections; (ii) a local community-based

7979 probation services agency established pursuant to § 9.1-174; or (iii) an alcohol safety action program (ASAP)
 7980 certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP).

7981 C. The court shall require the person entering such program under the provisions of this section to pay all
 7982 or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,
 7983 based upon the accused's ability to pay, unless the person is determined by the court to be indigent.

7984 D. As a condition of probation, the court shall require the accused (i) to successfully complete treatment
 7985 or education programs or services, (ii) to remain drug-free and alcohol-free during the period of probation
 7986 and submit to such tests during that period as may be necessary and appropriate to determine if the accused is
 7987 drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to
 7988 comply with a plan of up to 24 hours of community service. Such testing shall be conducted by personnel of the
 7989 supervising probation agency or personnel of any program or agency approved by the supervising probation
 7990 agency.

7991 E. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
 7992 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and
 7993 dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication
 7994 of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

7995 F. When any juvenile is found to have committed a violation of subsection A, the disposition of the case
 7996 shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

7997 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

7998 Any violation under this subtitle that is subject to a civil penalty is a civil offense and shall be charged by
 7999 summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a
 8000 law-enforcement officer when such violation is observed by such officer. The summons used by a law-
 8001 enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor
 8002 vehicle law violations as prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this
 8003 subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to §
 8004 18.2-251.02.

8005 **CHAPTER 12.**

8006 **PROHIBITED PRACTICES BY LICENSEES.**

8007 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

8008 A. No licensee or any agent or employee of such licensee shall:

8009 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of a
 8010 kind other than that which such license or this subtitle authorizes him to cultivate, manufacture, transport, sell,
 8011 or test;

8012 2. Sell retail marijuana or retail marijuana products of a kind that such license or this subtitle authorizes
 8013 him to sell, but to any person other than to those to whom such license or this subtitle authorizes him to sell;

8014 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that such
 8015 license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this
 8016 subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

8017 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products when
 8018 forbidden by this subtitle;

8019 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana or
 8020 retail marijuana products other than that which he is authorized to cultivate, manufacture, transport, sell, or
 8021 transport by such license or by this subtitle;

8022 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was
 8023 purchased by him; or

8024 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at a retail
 8025 marijuana store.

8026 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8027 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

8028 *A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee*
 8029 *shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved*
 8030 *in the selling of retail marijuana or retail marijuana products to consumers.*

8031 *B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or*
 8032 *marijuana products.*

8033 *C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to*
 8034 *exceed \$500.*

8035 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a**
 8036 **license; penalty.**

8037 *Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for resale or*
 8038 *sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds purchased*
 8039 *from anyone other than a marijuana cultivation facility, marijuana manufacturing facility, or marijuana*
 8040 *wholesaler licensee.*

8041 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

8042 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by licensees; penalty.**

8043 *A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products from*
 8044 *one licensed place of business to another licensed place of business, whether or not such places of business are*
 8045 *under the same ownership.*

8046 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

8047 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

8048 *No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any licensee*
 8049 *selling, renting, lending, buying for, or giving to any person any advertising materials or decorations under*
 8050 *circumstances prohibited by this title or Board regulations.*

8051 *Any person found by the Board to have violated this section shall be subject to a civil penalty as authorized*
 8052 *in § 4.1-903.*

8053 **§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of marijuana or marijuana products;**
 8054 **penalty.**

8055 *A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of retail*
 8056 *marijuana or retail marijuana products shall, without a permit granted by the Board and upon such conditions*
 8057 *as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store licensee; (ii) any*
 8058 *agent or employee of such licensee; or (iii) any person connected with the licensee in any capacity whatsoever*
 8059 *in his licensed business to sell or offer for sale the retail marijuana or retail marijuana products in which such*
 8060 *person may be so interested.*

8061 *The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale*
 8062 *of the retail marijuana or retail marijuana products that were the subject matter of the unlawful solicitation or*
 8063 *promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana or retail marijuana*
 8064 *products manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the*
 8065 *owner of the brand unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed*
 8066 *\$250,000 in lieu of such suspension or termination of sales, or both.*

8067 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

8068 *B. No retail marijuana store licensee or any agent or employee of such licensee, or any person connected*
 8069 *with the licensee in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a*
 8070 *party to, consent to, solicit, or aid or abet another in a violation of subsection A.*

8071 *The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty not to*
 8072 *exceed \$25,000 in lieu of such suspension or any portion thereof, or both.*

8073 *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

8074 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to**
 8075 **allow examination and inspection; penalty.**

8076 *A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii) deliver,*
 8077 *keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or*

8078 (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in
 8079 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
 8080 misdemeanor.

8081 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may
 8082 suspend or revoke any license of such licensee that was issued by the Authority.

8083 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

8084 A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable taxes
 8085 due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive, transport,
 8086 store, or sell any retail marijuana or retail marijuana products on which such retailer has reason to know such
 8087 tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a
 8088 Class 1 misdemeanor.

8089 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
 8090 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
 8091 is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof,
 8092 during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

8093 C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of
 8094 any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the
 8095 proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B.
 8096 It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its
 8097 taxable sales to the Authority at 50 percent or less of the actual amount.

8098 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
 8099 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due
 8100 within five days after the Authority gives it notice that such check was returned unpaid, the person by which
 8101 such check was tendered is guilty of a violation of § 18.2-182.1.

8102 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner
 8103 as if they were a part of the tax imposed.

8104 **CHAPTER 13.**

8105 **PROHIBITED PRACTICES; PROCEDURAL MATTERS.**

8106 **§ 4.1-1300. Enjoining nuisances.**

8107 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the
 8108 Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113
 8109 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

8110 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge
 8111 or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products
 8112 are cultivated, manufactured, stored, sold, dispensed, given away, or used in such house, building, or other
 8113 place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as
 8114 soon as the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and
 8115 their agents and employees, and any person connected with such house, building, or other place, and all persons
 8116 whomsoever from cultivating, manufacturing, storing, selling, dispensing, giving away, or using marijuana or
 8117 marijuana products on such premises. The injunction shall also restrain all persons from removing any
 8118 marijuana or marijuana products then on such premises until the further order of the court. If the court is
 8119 satisfied that the material allegations of the bill are true, although the premises complained of may not then be
 8120 unlawfully used, it shall continue the injunction against such place for a period of time as the court deems
 8121 proper. The injunction may be dissolved if a proper case is shown for dissolution.

8122 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

8123 A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana products, all
 8124 marijuana or marijuana products and materials used in their manufacture, all containers in which marijuana
 8125 or marijuana products may be found, that are kept, stored, possessed, or in any manner used in violation of the
 8126 provisions of this subtitle, and any dangerous weapons as described in § 18.2-308 that may be used or that may
 8127 be found upon the person, or in any vehicle that such person is using, to aid such person in the unlawful

8128 cultivation, manufacture, transportation, or sale of marijuana or marijuana products, or found in the possession
8129 of such person, or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any
8130 nature whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products
8131 are being unlawfully manufactured and where such animal or vehicle is being used to aid in the unlawful
8132 manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

8133 *B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1304*
8134 *for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1 (§*
8135 *19.2-386.1 et seq.) of Title 19.2.*

8136 **§ 4.1-1302. Search without warrant; odor of marijuana.**

8137 *A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person,*
8138 *place, or thing and no search warrant may be issued solely on the basis of the odor of marijuana and no*
8139 *evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or*
8140 *obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.*

8141 *B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation*
8142 *occurs in a commercial motor vehicle as defined in § 46.2-341.4.*

8143 **§ 4.1-1303. Search warrants.**

8144 *A. If complaint on oath is made that marijuana or marijuana products are being cultivated, manufactured,*
8145 *sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other place, in violation*
8146 *of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such*
8147 *complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search*
8148 *such house or other place for marijuana or marijuana products. Such warrants, except as herein otherwise*
8149 *provided, shall be issued, directed, and executed in accordance with the laws of the Commonwealth pertaining*
8150 *to search warrants.*

8151 *B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or vehicle,*
8152 *whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for marijuana*
8153 *or marijuana products may be executed in any part of the Commonwealth where they are overtaken and shall*
8154 *be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle,*
8155 *truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.*

8156 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

8157 *A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited*
8158 *to the Commonwealth under this subtitle shall be as provided in this section.*

8159 *B. Production of seized property. Whenever any article declared contraband under the provisions of this*
8160 *subtitle and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any*
8161 *officer charged with the enforcement of this subtitle, he shall produce the contraband article and any person in*
8162 *whose possession it was found. In those cases where no person is found in possession of such articles, the return*
8163 *shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles*
8164 *were found, or if there is no door, then in any conspicuous place upon the premises.*

8165 *In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove*
8166 *such item to a place of safe storage from the place where seized, the seizing officer may destroy such item only*
8167 *as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least one*
8168 *credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be*
8169 *made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and*
8170 *destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining after such*
8171 *destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer*
8172 *and witness have no doubt whatever that the item was set up for use, or had been used in the unlawful cultivation*
8173 *or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.*

8174 *In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture*
8175 *of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of*
8176 *unlawful cultivation or manufacture of marijuana or marijuana products or any other violation of this subtitle.*
8177 *The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer*

8178 *in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds*
8179 *of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their*
8180 *own knowledge, the seizing officer and witness have no doubt whatever that the marijuana or marijuana*
8181 *products were intended for use in the unlawful cultivation or manufacture of marijuana or marijuana products*
8182 *or were intended for use in violation of this subtitle.*

8183 *C. Hearing and determination. Upon the return of the warrant as provided in this section, the court shall*
8184 *fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days thereafter,*
8185 *for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used*
8186 *or in any manner kept, stored, or possessed in violation of this subtitle.*

8187 *At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the*
8188 *Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them*
8189 *over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and*
8190 *file a written claim setting forth particularly the character and extent of his interest. The court shall certify the*
8191 *warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity*
8192 *of such claim.*

8193 *If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be*
8194 *turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a*
8195 *bar to any prosecution under any other provision of this subtitle.*

8196 *D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to the*
8197 *Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net*
8198 *proceeds from such sales shall be paid into the Literary Fund.*

8199 *If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in*
8200 *accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale would be*
8201 *impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the*
8202 *local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made*
8203 *showing the nature of the foodstuffs and amount given, to whom given, and the date when given, and shall be*
8204 *kept in the offices of the Board.*

8205 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

8206 *A. When any officer charged with the enforcement of the cannabis control laws of the Commonwealth has*
8207 *reason to believe that retail marijuana or retail marijuana products illegally acquired, or being illegally*
8208 *transported, are in any conveyance or vehicle of any kind, either on land or on water, except a conveyance or*
8209 *vehicle owned or operated by a railroad, express, sleeping, or parlor car, or steamboat company, other than*
8210 *barges, tugs, or small craft, he shall obtain a search warrant and search such conveyance or vehicle. If illegally*
8211 *acquired retail marijuana or retail marijuana products or retail marijuana or retail marijuana products being*
8212 *illegally transported in amounts in excess of two and one-half ounces of retail marijuana, 16 ounces of solid*
8213 *retail marijuana product, or 72 ounces of liquid retail marijuana product, the officer shall seize the retail*
8214 *marijuana or retail marijuana product, seize and take possession of such conveyance or vehicle, and deliver*
8215 *them to the chief law-enforcement officer of the locality in which such seizure was made, taking his receipt*
8216 *therefor in duplicate.*

8217 *B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the attorney*
8218 *for the Commonwealth for the county or city in which seizure and arrest were made.*

8219 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

8220 *Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband*
8221 *and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of*
8222 *permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products*
8223 *within the Commonwealth when other Board regulations applicable to such transportation have been complied*
8224 *with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.*

8225 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

8226 A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to
 8227 the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating
 8228 any Board regulation is guilty of a Class 1 misdemeanor.

8229 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is
 8230 convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon
 8231 his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the
 8232 defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is
 8233 required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by
 8234 the court, provided that he shall not be confined for a period longer than six months. If any such bond required
 8235 by a court is not given during the term of the court by which conviction is had, it may be given before any judge
 8236 or before the clerk of such court.

8237 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to
 8238 continue the license of any person convicted of a violation of any provision of this subtitle.

8239 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant
 8240 has been notified that such a case is pending.

8241 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

8242 No person shall be excused from testifying for the Commonwealth as to any offense committed by another
 8243 under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person
 8244 on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him, and
 8245 he shall not be prosecuted for the offense to which he testifies.

8246 **§ 4.1-1309. Previous convictions.**

8247 In any indictment, information, or warrant charging any person with a violation of any provision of this
 8248 subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person
 8249 has been previously convicted of a violation of this subtitle.

8250 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

8251 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the
 8252 Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts therein stated
 8253 and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of
 8254 § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant
 8255 to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the accused or any party in interest,
 8256 the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-
 8257 examination, provided such motion is made within a reasonable time prior to the day on which the case is set
 8258 for trial.

8259 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

8260 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing retail
 8261 marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana content
 8262 of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana
 8263 content of a container, whether sealed or not.

8264 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

8265 No action to recover the price of any retail marijuana or retail marijuana products sold in contravention
 8266 of this subtitle may be maintained.

8267 CHAPTER 14.

8268 CANNABIS CONTROL; TESTING; ADVERTISING.

8269 **§ 4.1-1400. Board to establish regulations for marijuana testing.**

8270 The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise
 8271 provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or
 8272 distributing retail marijuana or a retail marijuana product to a consumer or to another licensee, to submit a
 8273 representative sample of the retail marijuana or retail marijuana product, not to exceed 10 percent of the total
 8274 harvest or batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana or retail
 8275 marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is

8276 *injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt*
 8277 *regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable testing and*
 8278 *research practices, including regulations relating to testing practices, methods, and standards; quality control*
 8279 *analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and*
 8280 *business practices; disposal of used, unused, and waste retail marijuana and retail marijuana products; and*
 8281 *reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which retail*
 8282 *marijuana and retail marijuana products shall be tested under this subtitle; and (iv) establishing the maximum*
 8283 *level of allowable contamination for each contaminant.*

8284 **§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**
 8285 **required destruction; random testing.**

8286 *A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer or to*
 8287 *another licensee under this subtitle unless a representative sample of the retail marijuana or retail marijuana*
 8288 *product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that*
 8289 *mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product does not exceed*
 8290 *the maximum level of allowable contamination for any contaminant that is injurious to health and for which*
 8291 *testing is required and (ii) the labeling on the retail marijuana or retail marijuana product is correct.*

8292 *B. Mandatory testing of retail marijuana and retail marijuana products under this section shall include*
 8293 *testing for:*

- 8294 *1. Residual solvents, poisons, and toxins;*
- 8295 *2. Harmful chemicals;*
- 8296 *3. Dangerous molds and mildew;*
- 8297 *4. Harmful microbes, including but not limited to Escherichia coli and Salmonella;*
- 8298 *5. Pesticides, fungicides, and insecticides; and*
- 8299 *6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct*
 8300 *labeling.*

8301 *Testing shall be performed on the final form in which the retail marijuana or retail marijuana product will*
 8302 *be consumed.*

8303 *C. A licensee shall maintain a record of all mandatory testing that includes a description of the retail*
 8304 *marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the marijuana*
 8305 *testing facility, and the results of the mandatory test.*

8306 *D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail*
 8307 *marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol (THC)*
 8308 *or contamination for any contaminant that is injurious to health and for which testing is required, the marijuana*
 8309 *testing facility shall immediately quarantine, document, and properly destroy the retail marijuana or retail*
 8310 *marijuana product and within 7 days of completing the test shall notify the Board of the test results.*

8311 *A marijuana testing facility is not required to notify the Board of the results of any test:*

8312 *1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant to*
 8313 *this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of*
 8314 *allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and*
 8315 *for which testing is required;*

8316 *2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for research*
 8317 *and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the*
 8318 *performance of the test that the testing is for research and development purposes only; or*

8319 *3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is not a*
 8320 *licensee.*

8321 *E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee retail*
 8322 *marijuana or a retail marijuana product that the licensee has not submitted for testing in accordance with this*
 8323 *subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:*

8324 *1. The retail marijuana or retail marijuana product has previously undergone testing in accordance with*
 8325 *this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and that testing*

8326 *demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum level of*
 8327 *allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and*
 8328 *for which testing is required;*

8329 *2. The mandatory testing process and the test results for the retail marijuana or retail marijuana product*
 8330 *are documented in accordance with the requirements of this subtitle and all applicable regulations adopted*
 8331 *pursuant to this subtitle;*

8332 *3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the retail*
 8333 *marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product to*
 8334 *another licensee or to a consumer can be easily identified; and*

8335 *4. The retail marijuana or retail marijuana product has not undergone any further processing,*
 8336 *manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.*

8337 *F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail*
 8338 *marijuana products whose testing samples indicate noncompliance with the health and safety standards*
 8339 *required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial*
 8340 *measures can bring the retail marijuana or retail marijuana products into compliance with such required health*
 8341 *and safety standards.*

8342 *G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana products*
 8343 *for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.*

8344 **§ 4.1-1402. Labeling and packaging requirements; prohibitions.**

8345 *A. 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 be labeled with the following information:*

8347 *1. Identification of the type of marijuana or marijuana product and the date of cultivation, manufacturing,*
 8348 *and packaging;*

8349 *2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility, and the*
 8350 *retail marijuana store where the retail marijuana or retail marijuana product was cultivated, manufactured,*
 8351 *and offered for sale, as applicable;*

8352 *3. A statement of the net weight of the retail marijuana or retail marijuana product;*

8353 *4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol*
 8354 *(THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount in*
 8355 *milligrams per serving, the total servings per package, and the THC and other cannabinoid amount in*
 8356 *milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;*

8357 *5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;*

8358 *6. Instructions on usage;*

8359 *7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a recommended*
 8360 *use by date or expiration date;*

8361 *8. For edible retail marijuana products, a nutritional fact panel;*

8362 *9. The following statements, prominently displayed in bold print and in a clear and legible fashion:*

8363 *a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA.*
 8364 *MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF*
 8365 *CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE*
 8366 *AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR*
 8367 *BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board*
 8368 *pursuant to § 4.1-606) FOR MORE INFORMATION."*

8369 *b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS*
 8370 *MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF*
 8371 *REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY*
 8372 *TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT*
 8373 *OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board*
 8374 *pursuant to § 4.1-606) FOR MORE INFORMATION.";*

8375 10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail marijuana
8376 products; and

8377 11. Any other information required by Board regulations.

8378 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer
8379 in accordance with the provisions of this subtitle shall be packaged in the following manner:

8380 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-evident,
8381 and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-
8382 resistant, tamper-evident, and resealable packaging that is opaque;

8383 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
8384 component; and

8385 3. Packaging shall comply with any other requirements imposed by Board regulations.

8386 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer
8387 in accordance with the provisions of this subtitle shall not:

8388 1. Be labeled or packaged in violation of a federal trademark law or regulation;

8389 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

8390 3. Be labeled or packaged in a manner that obscures identifying information on the label;

8391 4. Be labeled or packaged using a false or misleading label;

8392 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle, or
8393 fruit; and

8394 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board
8395 regulations.

8396 **§ 4.1-1403. Other health and safety requirements for edible retail marijuana products and other retail**
8397 **marijuana products deemed applicable by the Authority; health and safety regulations.**

8398 A. Requirements and restrictions for edible retail marijuana products and other retail marijuana products
8399 deemed applicable by the Authority. In addition to all other applicable provisions of this subtitle, edible retail
8400 marijuana products and other retail marijuana products deemed applicable by the Authority to be sold or
8401 offered for sale by a licensee to a consumer in accordance with this subtitle:

8402 1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

8403 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

8404 3. Shall be manufactured in a manner that results in the cannabinoid content within the product being
8405 homogeneous throughout the product or throughout each element of the product that has a cannabinoid
8406 content;

8407 4. Shall be manufactured in a manner that results in the amount of marijuana concentrate within the product
8408 being homogeneous throughout the product or throughout each element of the product that contains marijuana
8409 concentrate;

8410 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

8411 6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the product
8412 and shall not contain more than 50 milligrams of THC per package of the product;

8413 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed to
8414 make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v) are
8415 specifically designed to make the product appeal particularly to persons younger than 21 years of age; and

8416 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the
8417 trademarked product is used as a component of or ingredient in the edible retail marijuana product and the
8418 edible retail marijuana product is not advertised or described for sale as containing the trademarked product.

8419 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other health
8420 and safety regulations that it deems necessary for retail marijuana and retail marijuana products to be sold or
8421 offered for sale by a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to
8422 this subsection shall establish mandatory health and safety standards applicable to the cultivation of retail
8423 marijuana, the manufacture of retail marijuana products, and the packaging and labeling of retail marijuana
8424 and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:

- 8425 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail marijuana
8426 products by licensees;
- 8427 2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture of
8428 retail marijuana and retail marijuana products; and
- 8429 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana stores.
- 8430 **§ 4.1-1404. Advertising and marketing restrictions.**
- 8431 A. As used in this section, unless the context requires a different meaning, "health-related statement" means
8432 any statement related to health and includes statements of a curative or therapeutic nature that, expressly or
8433 by implication, suggest a relationship between the consumption of retail marijuana or retail marijuana products
8434 and health benefits or effects on health.
- 8435 B. No person shall advertise in or send any advertising matter into the Commonwealth about or concerning
8436 retail marijuana or retail marijuana products other than those that may be legally manufactured in the
8437 Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.
- 8438 C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience is
8439 reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition
8440 data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary
8441 schools.
- 8442 D. A licensee shall not engage in the use of pop-up digital advertisements but may list their establishment
8443 in public phone books and directories.
- 8444 E. A licensee shall not display any marijuana or marijuana product pricing through any means of
8445 advertisement other than their establishment website, which shall be registered with the Authority, or an opt-
8446 in subscription-based service, provided that the licensee utilizes proper age verification techniques to confirm
8447 that the person attempting to access the website or sign up for a subscription-based service is 21 years of age
8448 or older.
- 8449 F. Advertising or marketing used by or on behalf of a licensee:
- 8450 1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a minimum, the
8451 licensee's license number, and shall include the following statement: "For use by adults 21 years of age and
8452 older";
- 8453 2. Shall not be misleading, deceptive, or false;
- 8454 3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in
8455 any way; and
- 8456 4. Shall comply with any other provisions imposed by Board regulations.
- 8457 G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by
8458 the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older
8459 before engaging in that communication or dialogue controlled by the licensee. For the purposes of this
8460 subsection, that method of age affirmation may include user confirmation, birth date disclosure, or any other
8461 similar registration method.
- 8462 H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or any
8463 marijuana accessories, as part of a business promotion or other commercial activity.
- 8464 I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish
8465 or disseminate advertising or marketing containing any health-related statement that is untrue in any particular
8466 manner or tends to create a misleading impression as to the effects on health of marijuana consumption.
- 8467 J. The provisions of this section shall not apply to noncommercial speech.
- 8468 K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market and
8469 notify the public of the location of marijuana establishments.
- 8470 **§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.**
- 8471 A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000 linear
8472 feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face
8473 upon which the advertisement is placed to the nearest edge of a building or structure located on the real

8474 property of (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private
8475 playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility.

8476 B. However, (i) if there is no building or structure on a playground or similar recreational or child-centered
8477 facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed
8478 to the property line of such playground or similar recreational or child-centered facility and (ii) if a public,
8479 private, or parochial school providing grades kindergarten through 12 education is located across the road
8480 from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is
8481 placed to the nearest edge of a building or structure located on such real property across the road.

8482 C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from (i) a
8483 public, private, or parochial school or an institution of higher education; (ii) a public or private playground or
8484 similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility, but the
8485 circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall
8486 permit the advertisement to remain as displayed for the remainder of the term of any written advertising
8487 contract, but in no event more than one year from the date of the change in circumstances.

8488 D. Provided that such signs are in compliance with local ordinances, the distance and zoning restrictions
8489 contained in this section shall not apply to:

8490 1. Signs placed by licensees upon the property on which the licensed premises are located so long as such
8491 signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-discharge tubes
8492 that contain rarefied neon or other gases; or

8493 2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler
8494 licensees with advertising limited to trade names and brand names.

8495 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included
8496 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its
8497 agents.

8498 F. A marijuana licensee shall not advertise at any sporting event or use any billboard advertisements in the
8499 Commonwealth.

8500 G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with the
8501 provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations
8502 adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations.
8503 Further, any outdoor retail marijuana products directional sign located or to be located on highway rights of
8504 way shall also be governed by and comply with the Integrated Directional Sign Program administered by the
8505 Virginia Department of Transportation or its agents and federal laws and regulations.

8506 CHAPTER 15.

8507 VIRGINIA CANNABIS EQUITY BUSINESS LOAN PROGRAM AND FUND.

8508 § 4.1-1500. Definitions.

8509 As used in this chapter, unless the context requires a different meaning:

8510 "CDFI" means a community development financial institution that provides credit and financial services
8511 for underserved communities.

8512 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

8513 "Funding" means loans made from the Fund.

8514 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

8515 "Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606
8516 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined
8517 by the Board, a license to operate a marijuana establishment.

8518 § 4.1-1501. Virginia Cannabis Equity Business Loan Fund.

8519 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
8520 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established
8521 on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,
8522 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.
8523 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining

8524 *in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but*
 8525 *shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing low-interest*
 8526 *and zero-interest loans to social equity qualified cannabis licensees in order to foster business ownership and*
 8527 *economic growth within communities that have been the most disproportionately impacted by the former*
 8528 *prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer*
 8529 *on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the*
 8530 *Authority.*

8531 **§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the Fund.**

8532 *A. The Authority shall establish a Program to provide loans to qualified social equity cannabis licensees*
 8533 *for the purpose of promoting business ownership and economic growth by communities that have been*
 8534 *disproportionately impacted by the prohibition of cannabis. The Authority shall select and work in*
 8535 *collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the Fund.*
 8536 *The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience in business*
 8537 *lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the capability to*
 8538 *dedicate sufficient staff to manage the Program. Working with the selected CDFI, the Authority shall establish*
 8539 *monitoring and accountability mechanisms for businesses receiving funding and shall report annually the*
 8540 *number of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the*
 8541 *outcomes, including the number and types of jobs created.*

8542 *B. The Program shall:*

- 8543 *1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of a cannabis*
- 8544 *business properly licensed pursuant to the provisions of this subtitle;*
- 8545 *2. Provide loans for the purposes described in subsection A;*
- 8546 *3. Provide technical assistance; and*
- 8547 *4. Bring together community partners to sustain the Program.*

8548 **§ 4.1-1503. Annual reports.**

8549 *On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety and*
 8550 *Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen of the*
 8551 *House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other*
 8552 *matters regarding the Fund as the Authority may deem appropriate, including the amount of funding committed*
 8553 *to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such*
 8554 *report is to be submitted.*

8555 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or marijuana;**
 8556 **reckless operation.**

8557 *Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of*
 8558 *this Commonwealth, while under the influence of intoxicating liquor or of any narcotic or marijuana or any*
 8559 *habit-forming drugs shall be guilty of a felony and shall be confined in a state correctional facility not less*
 8560 *than one nor more than five years, or, in the discretion of the court or jury trying the case, be confined in jail*
 8561 *not exceeding twelve 12 months and fined not exceeding \$500, or both such fine and imprisonment.*

8562 *Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of*
 8563 *this Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety of others, or*
 8564 *without due caution and circumspection and in a manner so as to endanger any person or property, shall be*
 8565 *guilty of a misdemeanor.*

8566 **§ 6.2-107.1. Financial services for licensed marijuana establishments.**

8567 *A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided*
 8568 *in § 4.1-600.*

8569 *B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the*
 8570 *officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state*
 8571 *law or regulation solely for providing such a financial service or for further investing any income derived from*
 8572 *such a financial service.*

8573 *C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed*
 8574 *marijuana establishment.*

8575 **§ 9.1-101. (Effective until March 1, 2021) Definitions.**

8576 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a
 8577 different meaning:

8578 "Administration of criminal justice" means performance of any activity directly involving the detection,
 8579 apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision,
 8580 or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of
 8581 criminal history record information.

8582 "Board" means the Criminal Justice Services Board.

8583 "Conviction data" means information in the custody of any criminal justice agency relating to a judgment
 8584 of conviction, and the consequences arising therefrom, in any court.

8585 "Correctional status information" means records and data concerning each condition of a convicted person's
 8586 custodial status, including probation, confinement, work release, study release, escape, or termination of
 8587 custody through expiration of sentence, parole, pardon, or court decision.

8588 "Criminal history record information" means records and data collected by criminal justice agencies on
 8589 adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments,
 8590 informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile
 8591 record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice
 8592 intelligence information, criminal justice investigative information, or correctional status information.

8593 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as
 8594 its principal function performs the administration of criminal justice and any other agency or subunit thereof
 8595 which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter
 8596 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal
 8597 justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of
 8598 Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to
 8599 meet compulsory training standards established by the Criminal Justice Services Board and submits reports of
 8600 compliance with the training standards and (b) the private corporation or agency complies with the provisions
 8601 of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a
 8602 criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all
 8603 criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required
 8604 by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

8605 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to §
 8606 18.2-271.2.

8607 "Criminal justice agency" includes the Department of Criminal Justice Services.

8608 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

8609 "Criminal justice agency" includes the Virginia State Crime Commission.

8610 "Criminal justice information system" means a system including the equipment, facilities, procedures,
 8611 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal
 8612 history record information. The operations of the system may be performed manually or by using electronic
 8613 computers or other automated data processing equipment.

8614 "Department" means the Department of Criminal Justice Services.

8615 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The
 8616 term shall not include access to the information by officers or employees of a criminal justice agency
 8617 maintaining the information who have both a need and right to know the information.

8618 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
 8619 office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-
 8620 time or part-time employee of a private police department, and who is responsible for the prevention and
 8621 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall
 8622 include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*

8623 *Control Authority*; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
8624 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
8625 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the
8626 Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned
8627 pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor
8628 Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632
8629 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
8630 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to
8631 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
8632 with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
8633 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
8634 police officer employed by a private police department. Part-time employees are those compensated officers
8635 who are not full-time employees as defined by the employing police department, sheriff's office, or private
8636 police department.

8637 "Private police department" means any police department, other than a department that employs police
8638 agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized
8639 by statute or an act of assembly to establish a private police department or such entity's successor in interest,
8640 provided it complies with the requirements set forth herein. No entity is authorized to operate a private police
8641 department or represent that it is a private police department unless such entity has been authorized by statute
8642 or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to
8643 this section, provided it complies with the requirements set forth herein. The authority of a private police
8644 department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the
8645 local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties,
8646 or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§
8647 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall
8648 enter into a memorandum of understanding with the private police department that addresses the duties and
8649 responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal
8650 investigations. Private police departments and private police officers shall be subject to and comply with the
8651 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
8652 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and
8653 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private
8654 police departments. Any person employed as a private police officer pursuant to this section shall meet all
8655 requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant
8656 to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.)
8657 or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law
8658 enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B
8659 et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private
8660 police department may use the word "police" to describe its sworn officers and may join a regional criminal
8661 justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private
8662 police department in existence on January 1, 2013, that was not otherwise established by statute or an act of
8663 assembly and whose status as a private police department was recognized by the Department at that time is
8664 hereby validated and may continue to operate as a private police department as may such entity's successor in
8665 interest, provided it complies with the requirements set forth herein.

8666 "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement
8667 agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

8668 "School security officer" means an individual who is employed by the local school board or a private or
8669 religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating
8670 violations of the policies of the school board or the private or religious school, and detaining students violating
8671 the law or the policies of the school board or the private or religious school on school property, school buses,

8672 or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all
8673 students, faculty, staff, and visitors in the assigned school.

8674 "Unapplied criminal history record information" means information pertaining to criminal offenses
8675 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an
8676 arrested or convicted person (i) because such information is not supported by fingerprints or other accepted
8677 means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the
8678 submitted information.

8679 **§ 9.1-101. (Effective March 1, 2021) Definitions.**

8680 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a
8681 different meaning:

8682 "Administration of criminal justice" means performance of any activity directly involving the detection,
8683 apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision,
8684 or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of
8685 criminal history record information.

8686 "Board" means the Criminal Justice Services Board.

8687 "Conviction data" means information in the custody of any criminal justice agency relating to a judgment
8688 of conviction, and the consequences arising therefrom, in any court.

8689 "Correctional status information" means records and data concerning each condition of a convicted person's
8690 custodial status, including probation, confinement, work release, study release, escape, or termination of
8691 custody through expiration of sentence, parole, pardon, or court decision.

8692 "Criminal history record information" means records and data collected by criminal justice agencies on
8693 adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments,
8694 informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile
8695 record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice
8696 intelligence information, criminal justice investigative information, or correctional status information.

8697 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as
8698 its principal function performs the administration of criminal justice and any other agency or subunit thereof
8699 which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter
8700 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal
8701 justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of
8702 Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to
8703 meet compulsory training standards established by the Criminal Justice Services Board and submits reports of
8704 compliance with the training standards and (b) the private corporation or agency complies with the provisions
8705 of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a
8706 criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all
8707 criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required
8708 by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

8709 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to §
8710 18.2-271.2.

8711 "Criminal justice agency" includes the Department of Criminal Justice Services.

8712 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

8713 "Criminal justice agency" includes the Virginia State Crime Commission.

8714 "Criminal justice information system" means a system including the equipment, facilities, procedures,
8715 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal
8716 history record information. The operations of the system may be performed manually or by using electronic
8717 computers or other automated data processing equipment.

8718 "Department" means the Department of Criminal Justice Services.

8719 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The
8720 term shall not include access to the information by officers or employees of a criminal justice agency
8721 maintaining the information who have both a need and right to know the information.

8722 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
8723 office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-
8724 time or part-time employee of a private police department, and who is responsible for the prevention and
8725 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall
8726 include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*
8727 *Control Authority*; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
8728 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
8729 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the
8730 Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned
8731 pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor
8732 Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632
8733 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
8734 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to
8735 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
8736 with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
8737 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
8738 police officer employed by a private police department. Part-time employees are those compensated officers
8739 who are not full-time employees as defined by the employing police department, sheriff's office, or private
8740 police department.

8741 "Private police department" means any police department, other than a department that employs police
8742 agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized
8743 by statute or an act of assembly to establish a private police department or such entity's successor in interest,
8744 provided it complies with the requirements set forth herein. No entity is authorized to operate a private police
8745 department or represent that it is a private police department unless such entity has been authorized by statute
8746 or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to
8747 this section, provided it complies with the requirements set forth herein. The authority of a private police
8748 department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the
8749 local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties,
8750 or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§
8751 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall
8752 enter into a memorandum of understanding with the private police department that addresses the duties and
8753 responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal
8754 investigations. Private police departments and private police officers shall be subject to and comply with the
8755 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
8756 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-
8757 1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable
8758 to private police departments. Any person employed as a private police officer pursuant to this section shall
8759 meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers
8760 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-
8761 400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified
8762 retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18
8763 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An
8764 authorized private police department may use the word "police" to describe its sworn officers and may join a
8765 regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2.
8766 Any private police department in existence on January 1, 2013, that was not otherwise established by statute or
8767 an act of assembly and whose status as a private police department was recognized by the Department at that
8768 time is hereby validated and may continue to operate as a private police department as may such entity's
8769 successor in interest, provided it complies with the requirements set forth herein.

8770 "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement
8771 agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

8772 "School security officer" means an individual who is employed by the local school board or a private or
 8773 religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating
 8774 violations of the policies of the school board or the private or religious school, and detaining students violating
 8775 the law or the policies of the school board or the private or religious school on school property, school buses,
 8776 or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all
 8777 students, faculty, staff, and visitors in the assigned school.

8778 "Unapplied criminal history record information" means information pertaining to criminal offenses
 8779 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an
 8780 arrested or convicted person (i) because such information is not supported by fingerprints or other accepted
 8781 means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the
 8782 submitted information.

8783 **§ 9.1-400. Title of chapter; definitions.**

8784 A. This chapter shall be known and designated as the Line of Duty Act.

8785 B. As used in this chapter, unless the context requires a different meaning:

8786 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will
 8787 of a deceased person if testate, or as his heirs at law if intestate.

8788 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty
 8789 as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1,
 8790 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-
 8791 enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated
 8792 pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department
 8793 of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting
 8794 the operations of the Department of Juvenile Justice, and members of the investigations unit of the State
 8795 Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the
 8796 operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional
 8797 jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of
 8798 Richmond; a police chaplain; a member of any fire company or department or emergency medical services
 8799 agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or
 8800 town of the Commonwealth as an integral part of the official safety program of such county, city, or town,
 8801 including a person with a recognized membership status with such fire company or department who is enrolled
 8802 in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or
 8803 department training required in pursuit of qualification to become a certified firefighter; a member of any fire
 8804 company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air
 8805 National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is
 8806 serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under
 8807 Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority
 8808 *or the Virginia Cannabis Control Authority*; ~~any~~ a regular or special conservation police officer who receives
 8809 compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of
 8810 § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-1135; ~~any~~ a member
 8811 or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
 8812 ~~any~~ a Department of Emergency Management hazardous materials officer; any other employee of the
 8813 Department of Emergency Management who is performing official duties of the agency, when those duties are
 8814 related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist
 8815 under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county, city, or
 8816 town performing official emergency management or emergency services duties in cooperation with the
 8817 Department of Emergency Management, when those duties are related to a major disaster or emergency, as
 8818 defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in
 8819 accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing
 8820 body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team member; ~~any~~ a conservation
 8821 officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-

8822 time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to §
8823 46.2-217.

8824 "Disabled person" means any individual who has been determined to be mentally or physically
8825 incapacitated so as to prevent the further performance of his duties at the time of his disability where such
8826 incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate
8827 result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-
8828 402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition
8829 of deceased person in this section. "Disabled person" does not include any individual who has been determined
8830 to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state
8831 employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

8832 "Eligible dependent," for purposes of continued health insurance pursuant to § 9.1-401, means the natural
8833 or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's
8834 eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to
8835 the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of
8836 the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is
8837 pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing,
8838 "eligible dependent" ~~shall also include~~ *includes* the natural or adopted child or children of a deceased person or
8839 disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's
8840 death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the
8841 eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia
8842 Administrative Code or administrative guidance as determined by the Department of Human Resource
8843 Management.

8844 "Eligible spouse," for purposes of continued health insurance pursuant to § 9.1-401, means the spouse of a
8845 deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the
8846 eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person,
8847 dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative
8848 Code or administrative guidance as determined by the Department of Human Resource Management.

8849 "Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would
8850 be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

8851 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer
8852 who is a member of any fire company or department or rescue squad described in the definition of "deceased
8853 person," the county, city, or town that by ordinance or resolution recognized such fire company or department
8854 or rescue squad as an integral part of the official safety program of such locality.

8855 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

8856 "Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by
8857 rule, regulation, condition of employment or service, or law.

8858 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

8859 "Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that
8860 elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

8861 "Participating employer" means any employer that is a state agency or is a political subdivision of the
8862 Commonwealth that did not make an election to become a nonparticipating employer.

8863 "VRS" means the Virginia Retirement System.

8864 § 9.1-500. Definitions.

8865 As used in this chapter, unless the context requires a different meaning:

8866 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine
8867 Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia
8868 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of
8869 Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus
8870 police department of any public institution of higher education of the Commonwealth employing the law-
8871 enforcement officer.

8872 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the
 8873 Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a
 8874 nonprobationary officer of one of the following agencies:

8875 a.1. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
 8876 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic
 8877 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor Vehicles, or
 8878 the Department of Conservation and Recreation;

8879 b.2. The police department, bureau, or force of any political subdivision or the campus police department
 8880 of any public institution of higher education of the Commonwealth where such department, bureau, or force
 8881 has three or more law-enforcement officers; or

8882 e.3. Any conservation police officer as defined in § 9.1-101.

8883 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's department
 8884 of any city or county.

8885 **§ 9.1-801. Public safety officer defined.**

8886 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
 8887 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional
 8888 officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional
 8889 jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer
 8890 emergency medical services agency that has been recognized by an ordinance or resolution of the governing
 8891 body of any county, city, or town of the Commonwealth as an integral part of the official safety program of
 8892 such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia
 8893 Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force
 8894 on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia
 8895 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; any police agent appointed
 8896 under the provisions of § 56-353; any regular or special conservation police officer who receives compensation
 8897 from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned
 8898 forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources
 8899 Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management
 8900 hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member;
 8901 any investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-time
 8902 sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of
 8903 Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police
 8904 officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any
 8905 conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

8906 **§ 9.1-1101. Powers and duties of the Department.**

8907 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of
 8908 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and
 8909 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant
 8910 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any
 8911 private police department that has been designated as a criminal justice agency by the Department of Criminal
 8912 Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The Department shall
 8913 provide such services to any federal investigatory agency within available resources.

8914 B. The Department shall:

8915 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and
 8916 provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as
 8917 needed;

8918 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of
 8919 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

8920 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six
 8921 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

8922 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in
 8923 substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.
 8924 The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider
 8925 the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total
 8926 available THC derived from the sum of the THC and THC-A content.

8927 C. The Department shall have the power and duty to:

8928 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of
 8929 this chapter;

8930 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties
 8931 and execution of its powers under this chapter including, but not limited to, contracts with the United States,
 8932 units of general local government or combinations thereof in Virginia or other states, and with agencies and
 8933 departments of the Commonwealth; and

8934 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

8935 D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry
 8936 out the duties and responsibilities conferred by this chapter.

8937 **§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

8938 A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to
 8939 carry out any duties as a part of his office in civil matters of advising the governing body and all boards,
 8940 departments, agencies, officials and employees of his county or city; of drafting or preparing county or city
 8941 ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or
 8942 agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing
 8943 the county or city, its boards, departments, agencies, officials and employees, except in matters involving the
 8944 enforcement of the criminal law within the county or city.

8945 B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the
 8946 department of law enforcement of the county or city in which he is elected or appointed, and shall have the
 8947 duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments
 8948 or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or
 8949 any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more,
 8950 or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him
 8951 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-
 8952 341.26:3.

8953 **§ 15.2-2820. Definitions.**

8954 As used in this chapter, unless the context requires a different meaning:

8955 "Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service
 8956 of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is
 8957 incidental to the consumption of the alcoholic beverages.

8958 "Educational facility" means any building used for instruction of enrolled students, including but not limited
 8959 to any day-care center, nursery school, public or private school, institution of higher education, medical school,
 8960 law school, or career and technical education school.

8961 "Health care facility" means any institution, place, building, or agency required to be licensed under
 8962 Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted
 8963 living facility, supervised living facility, or ambulatory medical and surgical center.

8964 "Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant
 8965 of a building or portion thereof used exclusively for club purposes, including club or member sponsored events;
 8966 (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and
 8967 only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both
 8968 that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors,
 8969 executive committee, or similar body chosen by the members at an annual meeting.

8970 "Private function" means any gathering of persons for the purpose of deliberation, education, instruction,
 8971 entertainment, amusement, or dining that is not intended to be open to the public and for which membership or
 8972 specific invitation is a prerequisite to entry.

8973 "Private work place" means any office or work area that is not open to the public in the normal course of
 8974 business except by individual invitation.

8975 "Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the
 8976 public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

8977 "Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass
 8978 transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train,
 8979 bus, or boat that is not subject to federal smoking regulations.

8980 "Public place" means any enclosed, indoor area used by the general public, including but not limited to any
 8981 building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or
 8982 public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library,
 8983 retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used
 8984 for a performance or an exhibit of the arts or sciences, or any meeting room.

8985 "Recreational facility" means any enclosed, indoor area used by the general public and used as a stadium,
 8986 arena, skating rink, video game facility, or senior citizen recreational facility.

8987 "Restaurant" means any place where food is prepared for service to the public on or off the premises, or
 8988 any place where food is served. Examples of such places include but are not limited to lunchrooms, short order
 8989 places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs,
 8990 kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and
 8991 colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68.
 8992 "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed
 8993 to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general
 8994 public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private
 8995 residence or in any location that is not a public place. "Restaurant" shall include any bar or lounge area that is
 8996 part of such restaurant.

8997 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind,
 8998 including *marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke
 8999 from a pipe, cigar, or cigarette of any kind, including *marijuana*.

9000 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed
 9001 for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other
 9002 similar performance.

9003 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;
 9004 prepayment of local ordinances.**

9005 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,
 9006 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions
 9007 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated
 9008 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances.
 9009 Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as
 9010 prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or
 9011 not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200
 9012 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

9013 Such infractions shall not include:

9014 1. Indictable offenses;

9015 2. [Repealed.]

9016 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic
 9017 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,
 9018 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his
 9019 custody or control;

- 9020 4. Reckless driving;
9021 5. Leaving the scene of an accident;
9022 6. Driving while under suspension or revocation of driving privileges;
9023 7. Driving without being licensed to drive.
9024 8. [Repealed.]

9025 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a
9026 magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a
9027 plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,
9028 prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of
9029 guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent
9030 to the Commissioner of the Department of Motor Vehicles.

9031 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a
9032 schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,
9033 designating each infraction specifically. The schedule, which may from time to time be amended, supplemented
9034 or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be
9035 construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed
9036 for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where
9037 the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or
9038 regulations promulgated thereunder.

9039 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and
9040 fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such
9041 ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may
9042 establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment
9043 of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded
9044 within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which
9045 from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout
9046 the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge
9047 trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where
9048 fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or
9049 regulations promulgated thereunder.

9050 **§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic infractions, and**
9051 **other violations in district court; additional fees to be added.**

9052 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing
9053 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of
9054 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;
9055 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic
9056 school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a
9057 finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-
9058 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, 46.2-324,
9059 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
9060 46.2-1158.02.

9061 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a
9062 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure
9063 to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed
9064 fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that
9065 incident. However, when a defendant who has multiple charges arising from the same incident and who has
9066 been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same
9067 incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed
9068 and the higher fixed fee.

9069 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if
 9070 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

9071 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also
 9072 assess any costs otherwise specifically provided by statute.

9073 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there
 9074 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee
 9075 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 9076 1. Processing fee (General Fund) (.573770);
- 9077 2. Virginia Crime Victim-Witness Fund (.049180);
- 9078 3. Regional Criminal Justice Training Academies Fund (.016393);
- 9079 4. Courthouse Construction/Maintenance Fund (.032787);
- 9080 5. Criminal Injuries Compensation Fund (.098361);
- 9081 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 9082 7. Sentencing/supervision fee (General Fund) (.131148); and
- 9083 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

9084 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-
 9085 247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount
 9086 collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds
 9087 in the fractional amounts designated:

- 9088 1. Processing fee (General Fund) (.257353);
- 9089 2. Virginia Crime Victim-Witness Fund (.022059);
- 9090 3. Regional Criminal Justice Training Academies Fund (.007353);
- 9091 4. Courthouse Construction/Maintenance Fund (.014706);
- 9092 5. Criminal Injuries Compensation Fund (.044118);
- 9093 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 9094 7. Drug Offender Assessment and Treatment Fund (.551471);
- 9095 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 9096 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

9097 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The
 9098 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following
 9099 funds in the fractional amounts designated:

- 9100 1. Processing fee (General Fund) (.764706);
- 9101 2. Virginia Crime Victim-Witness Fund (.058824);
- 9102 3. Regional Criminal Justice Training Academies Fund (.019608);
- 9103 4. Courthouse Construction/Maintenance Fund (.039216);
- 9104 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 9105 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

9106 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and other**
 9107 **violations in district court; additional fees to be added.**

9108 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing
 9109 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of
 9110 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;
 9111 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic
 9112 school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a
 9113 finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-
 9114 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 §§ 46.2-
 9115 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,
 9116 46.2-1053, and 46.2-1158.02.

9117 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a
 9118 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure

9119 to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed
 9120 fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that
 9121 incident. However, when a defendant who has multiple charges arising from the same incident and who has
 9122 been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same
 9123 incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed
 9124 and the higher fixed fee.

9125 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if
 9126 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

9127 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also
 9128 assess any costs otherwise specifically provided by statute.

9129 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there
 9130 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee
 9131 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 9132 1. Processing fee (General Fund) (.573770);
- 9133 2. Virginia Crime Victim-Witness Fund (.049180);
- 9134 3. Regional Criminal Justice Training Academies Fund (.016393);
- 9135 4. Courthouse Construction/Maintenance Fund (.032787);
- 9136 5. Criminal Injuries Compensation Fund (.098361);
- 9137 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 9138 7. Sentencing/supervision fee (General Fund)(.131148); and
- 9139 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

9140 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-
 9141 247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount
 9142 collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds
 9143 in the fractional amounts designated:

- 9144 1. Processing fee (General Fund) (.257353);
- 9145 2. Virginia Crime Victim-Witness Fund (.022059);
- 9146 3. Regional Criminal Justice Training Academies Fund (.007353);
- 9147 4. Courthouse Construction/Maintenance Fund (.014706);
- 9148 5. Criminal Injuries Compensation Fund (.044118);
- 9149 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 9150 7. Drug Offender Assessment and Treatment Fund (.551471);
- 9151 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 9152 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

9153 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The
 9154 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following
 9155 funds in the fractional amounts designated:

- 9156 1. Processing fee (General Fund) (.764706);
- 9157 2. Virginia Crime Victim-Witness Fund (.058824);
- 9158 3. Regional Criminal Justice Training Academies Fund (.019608);
- 9159 4. Courthouse Construction/Maintenance Fund (.039216);
- 9160 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 9161 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

9162 **§ 16.1-228. Definitions.**

9163 As used in this chapter, unless the context requires a different meaning:

9164 "Abused or neglected child" means any child:

- 9165 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or
 9166 allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or
 9167 creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but
 9168 not limited to, a child who is with his parent or other person responsible for his care either (i) during the

9169 manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful
 9170 sale of such substance by that child's parents or other person responsible for his care, where such manufacture,
 9171 or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

9172 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
 9173 his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in
 9174 accordance with the tenets and practices of a recognized church or religious denomination shall for that reason
 9175 alone be considered to be an abused or neglected child;

9176 3. Whose parents or other person responsible for his care abandons such child;

9177 4. Whose parents or other person responsible for his care commits or allows to be committed any sexual
 9178 act upon a child in violation of the law;

9179 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
 9180 physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

9181 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
 9182 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-
 9183 2000, with a person to whom the child is not related by blood or marriage and who the parent or other person
 9184 responsible for his care knows has been convicted of an offense against a minor for which registration is
 9185 required as a Tier III offender pursuant to § 9.1-902; or

9186 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the
 9187 federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for
 9188 Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

9189 If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or
 9190 emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child
 9191 to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency
 9192 that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of
 9193 terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child
 9194 is a neglected child upon the ground of abandonment.

9195 "Adoptive home" means the place of residence of any natural person in which a child resides as a member
 9196 of the household and in which he has been placed for the purposes of adoption or in which he has been legally
 9197 adopted by another member of the household.

9198 "Adult" means a person 18 years of age or older.

9199 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the
 9200 same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that
 9201 would be a felony if committed by an adult.

9202 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly structured
 9203 components including, but not limited to, military style drill and ceremony, physical labor, education and rigid
 9204 discipline, and no less than six months of intensive aftercare.

9205 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes
 9206 of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger
 9207 than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

9208 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a
 9209 serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior,
 9210 conduct or condition presents or results in a serious threat to the well-being and physical safety of another
 9211 person; however, no child who in good faith is under treatment solely by spiritual means through prayer in
 9212 accordance with the tenets and practices of a recognized church or religious denomination shall for that reason
 9213 alone be considered to be a child in need of services, nor shall any child who habitually remains away from or
 9214 habitually deserts or abandons his family as a result of what the court or the local child protective services unit
 9215 determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of
 9216 services for that reason alone.

9217 However, to find that a child falls within these provisions, (i) the conduct complained of must present a
 9218 clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or

9219 his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the
9220 intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or
9221 his family.

9222 "Child in need of supervision" means:

9223 1. A child who, while subject to compulsory school attendance, is habitually and without justification absent
9224 from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all
9225 educational services and programs that are required to be provided by law and which meet the child's particular
9226 educational needs, (ii) the school system from which the child is absent or other appropriate agency has made
9227 a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has
9228 provided documentation that it has complied with the provisions of § 22.1-258; or

9229 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
9230 placement authority, remains away from or deserts or abandons his family or lawful custodian on more than
9231 one occasion or escapes or remains away without proper authority from a residential care facility in which he
9232 has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or
9233 health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,
9234 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by
9235 the child or his family.

9236 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster home
9237 as defined in § 63.2-100.

9238 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and
9239 domestic relations district court of each county or city.

9240 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance
9241 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a
9242 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of §
9243 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of
9244 §§ 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
9245 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-~~
9246 ~~278.8:01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.~~

9247 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed a
9248 delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated
9249 under the provisions of § 16.1-269.6.

9250 "Department" means the Department of Juvenile Justice and "Director" means the administrative head in
9251 charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties
9252 imposed upon him under this law.

9253 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the
9254 comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

9255 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one
9256 in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against
9257 such person's family or household member. Such act includes, but is not limited to, any forceful detention,
9258 stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any
9259 criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault,
9260 or bodily injury.

9261 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the same
9262 home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with
9263 the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-
9264 sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the
9265 person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and
9266 sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with
9267 the person, whether or not the person and that individual have been married or have resided together at any

9268 time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person,
9269 and any children of either of them then residing in the same home with the person.

9270 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
9271 relationship with the child or his family.

9272 "Foster care services" means the provision of a full range of casework, treatment and community services
9273 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
9274 as defined in this section and his family when the child (i) has been identified as needing services to prevent or
9275 eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board
9276 of social services or a public agency designated by the community policy and management team and the parents
9277 or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted
9278 to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory
9279 responsibility of the local board pursuant to § 16.1-293.

9280 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
9281 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
9282 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
9283 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living
9284 arrangement in which such child or person does not have daily substitute parental supervision.

9285 "Independent living services" means services and activities provided to a child in foster care 14 years of
9286 age or older and who has been committed or entrusted to a local board of social services, child welfare agency,
9287 or private child-placing agency. "Independent living services" may also mean services and activities provided
9288 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
9289 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
9290 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
9291 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
9292 prior to placement in an independent living arrangement. "Independent living services" includes counseling,
9293 education, housing, employment, and money management skills development and access to essential documents
9294 and other appropriate services to help children or persons prepare for self-sufficiency.

9295 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
9296 chapter.

9297 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility
9298 as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child
9299 incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile
9300 facility.

9301 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of
9302 each county or city.

9303 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this
9304 chapter.

9305 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have
9306 physical custody of the child, to determine and redetermine where and with whom he shall live, the right and
9307 duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical
9308 care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order
9309 of joint custody as defined in § 20-107.2.

9310 "Permanent foster care placement" means the place of residence in which a child resides and in which he
9311 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement
9312 between the placing agency and the place of permanent foster care that the child shall remain in the placement
9313 until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251
9314 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons
9315 deemed appropriate to meet a child's needs on a long-term basis.

9316 "Qualified individual" means a trained professional or licensed clinician who is not an employee of the
9317 local board of social services or licensed child-placing agency that placed the child in a qualified residential

9318 treatment program and is not affiliated with any placement setting in which children are placed by such local
9319 board of social services or licensed child-placing agency.

9320 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
9321 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
9322 and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs
9323 identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or
9324 licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are
9325 available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including
9326 efforts to maintain connections between the child and his siblings and other family; documents and maintains
9327 records of such outreach efforts; and maintains contact information for any known biological family and fictive
9328 kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family
9329 members in the child's treatment program before and after discharge and documents the manner in which such
9330 participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six
9331 months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
9332 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child
9333 placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a)
9334 assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional
9335 assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child
9336 can be met through placement with a family member or in a foster home or, if not, in a placement setting
9337 authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide
9338 the most effective and appropriate level of care for the child in the least restrictive environment and be consistent
9339 with the short-term and long-term goals established for the child in his foster care or permanency plan; (c)
9340 establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is
9341 documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant
9342 to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

9343 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the
9344 parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of
9345 visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

9346 "Secure facility" or "detention home" means a local, regional or state public or private locked residential
9347 facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of
9348 children held in lawful custody.

9349 "Shelter care" means the temporary care of children in physically unrestricting facilities.

9350 "State Board" means the State Board of Juvenile Justice.

9351 "Status offender" means a child who commits an act prohibited by law which would not be criminal if
9352 committed by an adult.

9353 "Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

9354 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1
9355 when committed by a juvenile 14 years of age or older.

9356 **§ 16.1-260. Intake; petition; investigation.**

9357 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a
9358 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as
9359 provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social
9360 Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of
9361 petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the
9362 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated
9363 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions
9364 relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court
9365 of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may
9366 complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster
9367 care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish

9368 or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
9369 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the
9370 petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging
9371 abuse or neglect of a child shall be referred initially to the local department of social services in accordance
9372 with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings
9373 in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is
9374 filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual
9375 who is receiving support services or public assistance shall be denied the right to file a petition or motion to
9376 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support
9377 services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion,
9378 together with notice of the court date, to the Division of Child Support Enforcement.

9379 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake
9380 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio
9381 communication is used, an intake officer may exercise all powers conferred by law. All communications and
9382 proceedings shall be conducted in the same manner as if the appearance were in person, and any documents
9383 filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person
9384 to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an
9385 original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video
9386 and audio communication system used for an appearance shall meet the standards as set forth in subsection B
9387 of § 19.2-3.1.

9388 When the court service unit of any court receives a complaint alleging facts which may be sufficient to
9389 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed
9390 informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition
9391 to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the
9392 issuance of the petition.

9393 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of
9394 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or
9395 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would
9396 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony
9397 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a
9398 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded
9399 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if
9400 committed by an adult.

9401 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the
9402 attendance officer has provided documentation to the intake officer that the relevant school division has
9403 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake
9404 officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the
9405 juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more
9406 than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2)
9407 the immediately previous informal action or adjudication occurred at least three calendar years prior to the
9408 current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis
9409 must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that
9410 the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such
9411 programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure
9412 the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may
9413 refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
9414 interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably
9415 available from the appropriate department of social services, community services board, local school division,
9416 court service unit, and other appropriate and available public and private agencies and may be the family
9417 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile

9418 has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the
9419 petition.

9420 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in
9421 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the
9422 juvenile, which may include restitution and the performance of community service, based upon community
9423 resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken
9424 by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's
9425 parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint
9426 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke
9427 the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

9428 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
9429 support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned,
9430 or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal
9431 custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services
9432 which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to §
9433 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
9434 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
9435 respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases
9436 in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if
9437 the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be
9438 in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency
9439 other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
9440 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of
9441 the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-
9442 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-
9443 152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and
9444 time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

9445 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
9446 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of
9447 supervision have utilized or attempted to utilize treatment and services available in the community and have
9448 exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines
9449 that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate
9450 nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of
9451 supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a
9452 petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort
9453 to utilize available community treatment or services may he permit the petition to be filed.

9454 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
9455 would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at
9456 that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that
9457 probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court.
9458 The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a
9459 petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention
9460 or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
9461 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child
9462 in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision
9463 is final.

9464 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake
9465 officer shall accept and file a petition founded upon the warrant.

9466 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which
9467 alleges facts of an offense which would be a felony if committed by an adult.

9468 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report
9469 with the division superintendent of the school division in which any student who is the subject of a petition
9470 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime
9471 if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within
9472 the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and
9473 the nature of the offense, if the violation involves:

- 9474** 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.),
9475 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 9476** 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 9477** 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
9478 18.2;
- 9479** 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 9480** 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
9481 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 9482** 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et~~
9483 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~
- 9484** 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 9485** 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 9486** 9. Robbery pursuant to § 18.2-58;
- 9487** 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 9488** 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 9489** 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 9490** 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 9491** 14. A threat pursuant to § 18.2-60.

9492 The failure to provide information regarding the school in which the student who is the subject of the
9493 petition may be enrolled shall not be grounds for refusing to file a petition.

9494 The information provided to a division superintendent pursuant to this section may be disclosed only as
9495 provided in § 16.1-305.2.

9496 H. The filing of a petition shall not be necessary:

9497 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other
9498 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any
9499 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the
9500 court may proceed on a summons issued by the officer investigating the violation in the same manner as
9501 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of
9502 the accident or at any other location where a juvenile who is involved in such an accident may be located,
9503 proceed on a summons in lieu of filing a petition.

9504 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of §
9505 16.1-241.

9506 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
9507 commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1,~~ provided that the juvenile is
9508 released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a
9509 juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a
9510 summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the
9511 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
9512 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
9513 blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through
9514 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall
9515 authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian
9516 and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.
9517 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

9518 have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided
9519 that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time
9520 such summons alleging a violation of § 4.1-305 or ~~18.2-250.1~~ 4.1-1104 is served, the officer shall also serve
9521 upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the
9522 Supreme Court and make return of such service to the court. If the officer fails to make such service or return,
9523 the court shall dismiss the summons without prejudice.

9524 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4
9525 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a
9526 summons issued by the officer investigating the violation in the same manner as provided by law for adults
9527 provided that notice of the summons to appear is mailed by the investigating officer within five days of the
9528 issuance of the summons to a parent or legal guardian of the juvenile.

9529 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the
9530 jurisdiction granted it in § 16.1-241.

9531 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
9532 **statement.**

9533 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving
9534 a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game
9535 and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court
9536 before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii)
9537 may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the
9538 physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang
9539 as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation
9540 of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after
9541 January 1, 2000, which would be (a) a felony if committed by an adult, (b) a violation under Article 1 (§ 18.2-
9542 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
9543 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
9544 court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has
9545 a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse
9546 counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated
9547 court services unit or by an individual employed by or currently under contract to such agencies and who is
9548 specifically trained to conduct such assessments under the supervision of such counselor.

9549 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or
9550 may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of
9551 § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or
9552 economic injury as a result of the violation of law.

9553 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests;**
9554 **costs and fees; education or treatment programs.**

9555 Whenever any juvenile who has not previously been found delinquent of any offense under *Chapter 11* (§
9556 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
9557 the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic
9558 drugs, or has not previously had a proceeding against him for a violation of such an offense dismissed as
9559 provided in § 4.1-1120 or 18.2-251, is found delinquent of any offense concerning the use, in any manner, of
9560 drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances, the
9561 juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant
9562 to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be
9563 directed by the court. Such testing shall be conducted by a court services unit of the Department of Juvenile
9564 Justice, or by a locally operated court services unit or by personnel of any program or agency approved by the
9565 Department. The cost of such testing ordered by the court shall be paid by the Commonwealth from funds
9566 appropriated to the Department for this purpose. The court shall also order the juvenile to undergo such
9567 treatment or education program for substance abuse, if available, as the court deems appropriate based upon

9568 consideration of the substance abuse assessment. The treatment or education shall be provided by a program
 9569 licensed by the Department of Behavioral Health and Developmental Services or by a similar program available
 9570 through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally
 9571 operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act
 9572 (§ 16.1-309.2 et seq.).

9573 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**
 9574 **truancy.**

9575 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
 9576 the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any
 9577 county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of
 9578 *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
 9579 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-~~
 9580 ~~250.1~~, 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or
 9581 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-
 9582 309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii)
 9583 the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a
 9584 violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by
 9585 law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by
 9586 this section, if the offense involves a violation designated under clause (i) and the child was transporting a
 9587 person 17 years of age or younger, the court shall impose the additional fine and order community service as
 9588 provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the
 9589 denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever
 9590 is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever
 9591 is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause
 9592 (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is
 9593 committed by a child under the age of 16 years and three months, in which case the child's ability to apply for
 9594 a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and
 9595 three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
 9596 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
 9597 disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F
 9598 ~~of this section~~. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the
 9599 license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-
 9600 251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be
 9601 for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a
 9602 striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a
 9603 spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving
 9604 privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years
 9605 and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period
 9606 of two years following the date he reaches the age of 16 and three months.

9607 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and
 9608 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges
 9609 for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and
 9610 three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30
 9611 days following the date he reaches the age of 16 and three months.

9612 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a
 9613 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to
 9614 apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months,
 9615 as may be appropriate.

9616 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-
 9617 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

9618 reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile
9619 reaches the age of 18, whichever is longer, for a second or subsequent such offense.

9620 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
9621 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the
9622 physical custody of the court during any period of license denial.

9623 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
9624 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
9625 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
9626 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2,
9627 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts.
9628 No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
9629 results in an adjudication of guilt pursuant to subsection F.

9630 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's
9631 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the
9632 order of denial under subsection E.

9633 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection
9634 A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action
9635 program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the
9636 finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection
9637 A, such child may be referred to appropriate rehabilitative or educational services upon such terms and
9638 conditions as the court may set forth.

9639 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted
9640 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
9641 of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of §
9642 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and
9643 from home and school when school-provided transportation is available and no restricted license shall be issued
9644 if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it
9645 involves a second or subsequent violation of any offense designated in subsection A, a second finding by the
9646 court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a
9647 second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The
9648 issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to
9649 the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the
9650 child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order
9651 in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed
9652 pursuant to this section is guilty of a violation of § 46.2-301.

9653 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any
9654 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For
9655 a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year
9656 after its issuance.

9657 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
9658 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
9659 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the
9660 finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the
9661 child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without
9662 an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section
9663 in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication
9664 of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,
9665 the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions
9666 of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or

9667 (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under
 9668 § 16.1-278.8.

9669 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

9670 A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294
 9671 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the
 9672 clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295.
 9673 The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount
 9674 not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee
 9675 provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as
 9676 defined in § 17.1-295.

9677 The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the
 9678 Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the
 9679 Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage
 9680 Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail and Public
 9681 Transportation shall be exempt from paying any fee for remote access to land records. If any clerk contracts
 9682 with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a
 9683 provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of
 9684 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of
 9685 General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia
 9686 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail
 9687 and Public Transportation from paying any access or subscription fee.

9688 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have
 9689 remote access, in accordance with the security standards established by the Virginia Information Technologies
 9690 Agency. Any such agreement between a state agency or employee thereof acting in the employee's official
 9691 capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to
 9692 subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official
 9693 capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency
 9694 or employee thereof acting in the employee's official capacity to indemnify the clerk or the vendor. Any such
 9695 agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is
 9696 required to monitor its employees' activity under such agreement to ensure compliance with its terms.

9697 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that
 9698 shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded
 9699 in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

9700 D. Nothing herein shall be construed to require the use by the general public of the secure remote access to
 9701 land records made available by the clerk, and such records may continue to be accessed in person in the clerk's
 9702 office.

9703 **§ 18.2-46.1. Definitions.**

9704 As used in this article unless the context requires otherwise or it is otherwise provided:

9705 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

9706 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,
 9707 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one
 9708 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose
 9709 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to
 9710 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,
 9711 provided such acts were not part of a common act or transaction.

9712 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3,
 9713 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,
 9714 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,
 9715 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,
 9716 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-

9717 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
9718 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 §
9719 ~~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;
9720 or (vi) any substantially similar offense under the laws of another state or territory of the United States, the
9721 District of Columbia, or the United States.

9722 **§ 18.2-57. Assault and battery; penalty.**

9723 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and
9724 if the person intentionally selects the person against whom a simple assault is committed because of his race,
9725 religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty
9726 upon conviction shall include a term of confinement of at least six months.

9727 B. However, if a person intentionally selects the person against whom an assault and battery resulting in
9728 bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual
9729 orientation, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction
9730 shall include a term of confinement of at least six months.

9731 C. In addition, if any person commits an assault or an assault and battery against another knowing or having
9732 reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in
9733 subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or
9734 supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional
9735 correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the
9736 facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under
9737 the supervision of the Department of Juvenile Justice, an employee or other individual who provides control,
9738 care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral
9739 Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any
9740 emergency medical services personnel member who is employed by or is a volunteer of an emergency medical
9741 services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical
9742 services agency, regardless of whether a resolution has been adopted by the governing body of a political
9743 subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in
9744 the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony,
9745 and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of
9746 six months.

9747 Nothing in this subsection shall be construed to affect the right of any person charged with a violation of
9748 this section from asserting and presenting evidence in support of any defenses to the charge that may be
9749 available under common law.

9750 D. In addition, if any person commits a battery against another knowing or having reason to know that such
9751 other person is a full-time or part-time employee of any public or private elementary or secondary school and
9752 is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of
9753 such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory
9754 minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon
9755 prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence
9756 of confinement of six months.

9757 E. In addition, any person who commits a battery against another knowing or having reason to know that
9758 such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his
9759 duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency
9760 medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a
9761 term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

9762 F. As used in this section:

9763 "Disability" means a physical or mental impairment that substantially limits one or more of a person's major
9764 life activities.

9765 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title
9766 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

9767 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated
 9768 under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109,
 9769 any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission,
 9770 and any judge of a district court of the Commonwealth or any substitute judge of such district court.

9771 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
 9772 office that is part of or administered by the Commonwealth or any political subdivision thereof who is
 9773 responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws
 9774 of the Commonwealth, any conservation officer of the Department of Conservation and Recreation
 9775 commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority
 9776 or the Virginia Cannabis Control Authority, any conservation police-officers officer appointed pursuant to §
 9777 29.1-200, any full-time sworn-members member of the enforcement division of the Department of Motor
 9778 Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated
 9779 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes any
 9780 jail-officers officer in a local and or regional correctional-facilities facility, all any deputy-sheriffs sheriff,
 9781 whether assigned to law-enforcement duties, court services or local jail responsibilities, any auxiliary police
 9782 officers officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, any auxiliary deputy-sheriffs
 9783 sheriff appointed pursuant to § 15.2-1603, any police-officers officer of the Metropolitan Washington Airports
 9784 Authority pursuant to § 5.1-158, and any fire-marshals marshal appointed pursuant to § 27-30 when such fire
 9785 marshals have marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1.

9786 "School security officer" means the same as that term is defined in § 9.1-101.

9787 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school
 9788 security officer or full-time or part-time employee of any public or private elementary or secondary school
 9789 while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or
 9790 reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and
 9791 necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical
 9792 injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting
 9793 physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v)
 9794 reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled
 9795 substances or associated paraphernalia that are upon the person of the student or within his control.

9796 In determining whether a person was acting within the exceptions provided in this subsection, due deference
 9797 shall be given to reasonable judgments that were made by a school security officer or full-time or part-time
 9798 employee of any public or private elementary or secondary school at the time of the event.

9799 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI," "imitation**
 9800 **controlled substance" and "counterfeit controlled substance" in Title 18.2.**

9801 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title
 9802 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

9803 B. The term "imitation controlled substance," when used in this article, means (i) a counterfeit controlled
 9804 substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance
 9805 subject to abuse; and:

9806 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by
 9807 representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form
 9808 whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce
 9809 prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

9810 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or
 9811 depressant of the central nervous system and which is not commonly used or recognized for use in that particular
 9812 formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or
 9813 sold as permitted by the U.S. Food and Drug Administration.

9814 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation
 9815 controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with
 9816 accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug

9817 abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance
9818 in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug,
9819 and the methods of distribution of the drug and where and how it is sold to the public.

9820 ~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether~~
9821 ~~growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation~~
9822 ~~of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include~~
9823 ~~the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant,~~
9824 ~~unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis. Marijuana~~
9825 ~~does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant~~
9826 ~~to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a~~
9827 ~~tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as~~
9828 ~~defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.~~

9829 ~~E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,~~
9830 ~~bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade~~
9831 ~~name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,~~
9832 ~~packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so~~
9833 ~~manufacture, process, pack or distribute such drug.~~

9834 ~~F. The Department of Forensic Science shall determine the proper methods for detecting the concentration~~
9835 ~~of delta 9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-~~
9836 ~~3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall~~
9837 ~~consider the potential conversion of delta 9 tetrahydrocannabinol acid (THC A) into THC. The test result shall~~
9838 ~~include the total available THC derived from the sum of the THC and THC A content.~~

9839 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell,**
9840 **give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.**

9841 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), ~~it shall be~~ *is* unlawful for any person
9842 to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled
9843 substance or an imitation controlled substance.

9844 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled
9845 substance, the court may consider, in addition to all other relevant evidence, whether any distribution or
9846 attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an
9847 exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such
9848 consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in
9849 any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or
9850 substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances
9851 of like chemical composition sell.

9852 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled
9853 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than
9854 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in
9855 the warrant, indictment, or information that the person has been before convicted of such an offense or of a
9856 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the
9857 Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant,
9858 indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence,
9859 be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a
9860 mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be
9861 fined not more than \$500,000.

9862 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the
9863 warrant, indictment or information that he has been before convicted of two or more such offenses or of
9864 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the
9865 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,
9866 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10

9867 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with
9868 any other sentence, and he shall be fined not more than \$500,000.

9869 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
9870 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and
9871 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment
9872 to be served consecutively with any other sentence:

9873 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

9874 2. 500 grams or more of a mixture or substance containing a detectable amount of:

9875 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
9876 of ecgonine or their salts have been removed;

9877 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

9878 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

9879 d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in
9880 subdivisions ~~2a through 2e~~ a, b, and c;

9881 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~ that contain
9882 cocaine base; or

9883 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of
9884 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its
9885 isomers.

9886 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not
9887 be applicable if the court finds that:

9888 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

9889 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous
9890 weapon in connection with the offense or induce another participant in the offense to do so;

9891 c. The offense did not result in death or serious bodily injury to any person;

9892 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not
9893 engaged in a continuing criminal enterprise as defined in subsection I; and

9894 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth
9895 all information and evidence the person has concerning the offense or offenses that were part of the same course
9896 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other
9897 information to provide or that the Commonwealth already is aware of the information shall not preclude a
9898 determination by the court that the defendant has complied with this requirement.

9899 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,
9900 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount
9901 of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less
9902 than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation,
9903 any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment
9904 for life or for any period not less than 10 years, and be fined not more than \$500,000. When a person is convicted
9905 of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information
9906 that he has been previously convicted of two or more such offenses or of substantially similar offenses in any
9907 other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior
9908 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall
9909 be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a
9910 mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be
9911 fined not more than \$500,000.

9912 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered
9913 by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property
9914 is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This
9915 restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup,
9916 removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered

9917 unusable as a result of such methamphetamine production is property owned in whole or in part by the person
 9918 convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-
 9919 248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected
 9920 property or, if actual or estimated expenses cannot be determined, the sum of \$10,000. The convicted person
 9921 shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is
 9922 safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

9923 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled
 9924 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate
 9925 in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-
 9926 1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received
 9927 or expected nor to induce the recipient or intended recipient of the controlled substance to use or become
 9928 addicted to or dependent upon such controlled substance, ~~he shall be~~ *is* guilty of a Class 5 felony.

9929 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription
 9930 of a person authorized under this article to issue the same, which prescription has not been received in writing
 9931 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist
 9932 within one week of the time of filling the same, or if such violation consists of a request by such authorized
 9933 person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist
 9934 and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one
 9935 week thereof, either such offense shall constitute a Class 4 misdemeanor.

9936 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III
 9937 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is*
 9938 guilty of a Class 5 felony.

9939 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV
 9940 ~~shall be~~ *is* guilty of a Class 6 felony.

9941 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a
 9942 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,
 9943 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate
 9944 in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-
 9945 1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration
 9946 received or expected nor to induce the recipient or intended recipient of the controlled substance to use or
 9947 become addicted to or dependent upon such controlled substance, *is* guilty of a Class 1 misdemeanor.

9948 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or
 9949 Schedule VI or an imitation controlled substance ~~which that~~ *that* imitates a controlled substance classified in
 9950 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

9951 G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~ *that* imitates
 9952 a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In any
 9953 prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant
 9954 believed the imitation controlled substance to actually be a controlled substance.

9955 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,
 9956 give or distribute the following:

9957 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
 9958 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 9959 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
 9960 of ecgonine or their salts have been removed;

9961 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

9962 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

9963 d. Any compound, mixture, or preparation ~~which that~~ *that* contains any quantity of any of the substances referred
 9964 to in subdivisions a ~~through~~ *through*, b, and c;

9965 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ *that* contains cocaine
 9966 base; *or*

- 9967 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
 9968 ~~5.~~ 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more
 9969 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its
 9970 isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20
 9971 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence
 9972 shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed
 9973 in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a
 9974 firearm or other dangerous weapon in connection with the offense or induce another participant in the offense
 9975 to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not
 9976 an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing
 9977 criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing
 9978 hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has
 9979 concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan,
 9980 but the fact that the person has no relevant or useful other information to provide or that the Commonwealth
 9981 already is aware of the information shall not preclude a determination by the court that the defendant has
 9982 complied with this requirement.
- 9983 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a
 9984 continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000 but
 9985 less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,
 9986 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,
 9987 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,
 9988 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any
 9989 12-month period of its existence:
- 9990 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable
 - 9991 amount of heroin;
 - 9992 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount
 - 9993 of:
 - 9994 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
 - 9995 of ecgonine or their salts have been removed;
 - 9996 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 9997 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 9998 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred
 - 9999 to in subdivisions a ~~through b, and c~~;
 - 10000 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2
 - 10001 ~~which~~ *that* contains cocaine base; *or*
 - 10002 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~
 - 10003 ~~amount of marijuana; or~~
 - 10004 ~~5.~~ At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers
 - 10005 or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of
 - 10006 methamphetamine, its salts, isomers, or salts of its isomers.
- 10007 A conviction under this section shall be punishable by a fine of not more than \$1 million and imprisonment
 10008 for 20 years to life, 20 years of which shall be a mandatory minimum sentence.
- 10009 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a
 10010 continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any 12-
 10011 month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine
 10012 or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person
 10013 engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell,
 10014 give or distribute the following during any 12-month period of its existence:
- 10015 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
 - 10016 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

- 10017 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives
 10018 of ecgonine or their salts have been removed;
- 10019 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 10020 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 10021 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred
 10022 to in subdivisions a ~~through, b, and c~~;
- 10023 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine
 10024 base; *or*
- 10025 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~
- 10026 5. ~~At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms~~
 10027 ~~of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its~~
 10028 ~~isomers shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for
 10029 life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run
 10030 consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40
 10031 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.
- 10032 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any
 10033 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a
 10034 continuing series of violations of this section which are undertaken by such person in concert with five or more
 10035 other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any
 10036 other position of management, and from which such person obtains substantial income or resources or (iii) such
 10037 violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule
 10038 I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-
 10039 46.1.
- 10040 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two
 10041 or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or
 10042 amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus
 10043 acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone,
 10044 phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid,
 10045 sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide,
 10046 methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.
- 10047 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
 10048 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts
 10049 of optical isomers.
- 10050 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**
- 10051 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to transport
 10052 into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine, coca leaves
 10053 or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act or
 10054 one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds of marijuana~~. A
 10055 violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall be
 10056 sentenced to not less than five years nor more than 40 years imprisonment, three years of which shall be a
 10057 mandatory minimum term of imprisonment, and a fine not to exceed \$1,000,000. A second or subsequent
 10058 conviction hereunder shall be punishable by a mandatory minimum term of imprisonment of 10 years, which
 10059 shall be served consecutively with any other sentence.
- 10060 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance**
 10061 **abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;**
 10062 **violations; discharge.**
- 10063 Whenever any person who has not previously been convicted of any criminal offense under this article or
 10064 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
 10065 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such
 10066 an offense dismissed as provided in this section, or pleads guilty to or enters a plea of not guilty to possession

10067 of a controlled substance under § 18.2-250, the court, upon such plea if the facts found by the court would
 10068 justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer
 10069 further proceedings and place him on probation upon terms and conditions. If the court defers further
 10070 proceedings, at that time the court shall determine whether the clerk of court has been provided with the
 10071 fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant
 10072 to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-
 10073 enforcement officer.

10074 As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant
 10075 to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if
 10076 available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon
 10077 consideration of the substance abuse assessment. The program or services may be located in the judicial district
 10078 in which the charge is brought or in any other judicial district as the court may provide. The services shall be
 10079 provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a
 10080 similar program which is made available through the Department of Corrections, (ii) a local community-based
 10081 probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the
 10082 Commission on VASAP.

10083 The court shall require the person entering such program under the provisions of this section to pay all or
 10084 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based
 10085 upon the accused's ability to pay unless the person is determined by the court to be indigent.

10086 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or
 10087 education program or services, (b) to remain drug and alcohol free during the period of probation and submit
 10088 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and
 10089 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan
 10090 of at least 100 hours of community service for a felony and up to 24 hours of community service for a
 10091 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel
 10092 of any program or agency approved by the supervising probation agency.

10093 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise
 10094 provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been
 10095 provided with the fingerprint identification information or fingerprints of such person, the court shall discharge
 10096 the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
 10097 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
 10098 proceedings.

10099 Notwithstanding any other provision of this section, whenever a court places an individual on probation
 10100 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of
 10101 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had
 10102 his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

10103 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

10104 There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which
 10105 shall consist of moneys received from ~~(i)~~ fees imposed on certain drug offense convictions pursuant to § 16.1-
 10106 69.48:3 and subdivisions A 10 and 11 of § 17.1-275 ~~and (ii) civil penalties imposed for violations of § 18.2-~~
 10107 ~~250.1.~~ All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund.
 10108 Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and
 10109 Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All
 10110 moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of
 10111 Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the
 10112 offender substance abuse screening and assessment program; the Department of Criminal Justice Services for
 10113 the support of community-based probation and local pretrial services agencies; and the Office of the Executive
 10114 Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

10115 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

10116 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
10117 consumption or use of a controlled substance, alcohol, or any combination of such substances.

10118 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
10119 consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana*
10120 *pursuant to § 4.1-1104 or 4.1-1105*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of~~
10121 ~~marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled
10122 paraphernalia pursuant to § 54.1-3466 if:

10123 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is
10124 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or
10125 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical
10126 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in §
10127 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as
10128 defined in § 9.1-101, or an emergency 911 system;

10129 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the
10130 person requiring emergency medical attention has been transported until a law-enforcement officer responds to
10131 the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the
10132 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

10133 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
10134 overdose; and

10135 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
10136 the individual seeking or obtaining emergency medical attention.

10137 C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
10138 attention for himself or another individual, or to a person experiencing an overdose when another individual
10139 seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the
10140 conduct of a lawful search or a lawful arrest.

10141 D. This section does not establish protection from arrest or prosecution for any individual or offense other
10142 than those listed in subsection B.

10143 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
10144 determined that the person arrested was immune from prosecution under this section.

10145 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

10146 No school nurse employed by a local school board, person employed by a local health department who is
10147 assigned to the public school pursuant to an agreement between the local health department and the school
10148 board, or other person employed by or contracted with a local school board to deliver health-related services
10149 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-~~
10150 ~~250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering
10151 cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a
10152 valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

10153 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**
10154 **facilities; hospice and hospice facilities; assisted living facilities.**

10155 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized
10156 to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11*
10157 *(§ 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
10158 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or
10159 resident who has been issued a valid written certification for the use of cannabis oil in accordance with
10160 subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

10161 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.**

10162 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial
10163 hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed
10164 industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11*
10165 *(§ 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

10166 or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing
10167 purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture
10168 and Consumer Services.

10169 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and**
10170 **treatment or education.**

10171 The trial judge or court trying the case of any person found guilty of a criminal violation of any law
10172 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
10173 substances and like substances shall condition any suspended sentence by first requiring such person to agree
10174 to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance
10175 abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the
10176 supervising probation agency or by personnel of any program or agency approved by the supervising probation
10177 agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part
10178 of the costs of such proceedings. The judge or court shall order the person, as a condition of any suspended
10179 sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems
10180 appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be
10181 provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services,
10182 by a similar program or services available through the Department of Corrections if the court imposes a sentence
10183 of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services
10184 available through a local or regional jail, a local community-based probation services agency established
10185 pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

10186 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

10187 A. Whenever any person who has not previously been convicted of any criminal offense under this article
10188 or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant,
10189 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an
10190 offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any
10191 manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like
10192 substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to §
10193 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be
10194 directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and
10195 taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo
10196 such treatment or education for substance abuse, if available, as the judge or court deems appropriate based
10197 upon consideration of the substance abuse assessment. The treatment or education shall be provided by a
10198 program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar
10199 program or services available through the Department of Corrections if the court imposes a sentence of one
10200 year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available
10201 through a local or regional jail, a local community-based probation services agency established pursuant to §
10202 9.1-174, or an ASAP program certified by the Commission on VASAP.

10203 B. The court trying the case of any person alleged to have committed any criminal offense designated by
10204 this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the
10205 commission of the offense was motivated by or closely related to the use of drugs and determined by the court,
10206 pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may
10207 commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to
10208 any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health
10209 and Developmental Services, if space is available in such facility, for a period of time not in excess of the
10210 maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was
10211 determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such
10212 commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed
10213 may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be
10214 prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person
10215 was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to

10216 an appropriate state or local correctional facility. Upon presentation of a certified statement from the director
 10217 of the treatment facility to the effect that the confined person has successfully responded to treatment, the court
 10218 may release such confined person prior to the termination of the period of time for which such person was
 10219 confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

10220 C. The court trying a case in which commission of the criminal offense was related to the defendant's
 10221 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and
 10222 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the
 10223 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with
 10224 substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is
 10225 available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as
 10226 the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement
 10227 in a penal institution and the person so committed may be convicted of escape if he leaves the place of
 10228 commitment without authority. The court may revoke such commitment at any time and transfer the person to
 10229 an appropriate state or local correctional facility. Upon presentation of a certified statement from the director
 10230 of the treatment facility to the effect that the confined person has successfully responded to treatment, the court
 10231 may release such confined person prior to the termination of the period of time for which such person was
 10232 confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

10233 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

10234 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1, it shall be~~
 10235 ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug
 10236 classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age who is at least three years
 10237 his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in
 10238 Schedule I, II, III or IV ~~or marijuana~~. Any person violating this provision shall upon conviction be imprisoned
 10239 in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than
 10240 \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II
 10241 controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum sentence. ~~Two years of~~
 10242 ~~the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a~~
 10243 ~~mandatory minimum sentence.~~

10244 B. ~~It shall be~~ ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 10245 distribute any imitation controlled substance to a person under 18 years of age who is at least three years his
 10246 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled
 10247 substance. Any person violating this provision ~~shall be~~ ~~is~~ guilty of a Class 6 felony.

10248 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 10249 **administering marijuana or controlled substances to minors; penalty.**

10250 It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor
 10251 any book, pamphlet, periodical or other printed matter which he knows advertises for sale any instrument,
 10252 device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing or
 10253 growing ~~marijuana~~ or a controlled substance.

10254 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

10255 A. ~~It shall be~~ ~~is~~ unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give
 10256 or distribute any controlled substance; ~~or~~ imitation controlled substance; ~~or marijuana~~ while:

10257 1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any public or private
 10258 elementary or secondary school, any institution of higher education, or any clearly marked licensed child day
 10259 center as defined in § 63.2-100;

10260 1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or private
 10261 elementary or secondary school, any institution of higher education, or any clearly marked licensed child day
 10262 center as defined in § 22.1-289.02;

10263 2. Upon public property or any property open to public use within 1,000 feet of the property described in
 10264 subdivision 1;

10265 3. On any school bus as defined in § 46.2-100;

10266 4. Upon a designated school bus stop, or upon either public property or any property open to public use
 10267 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be
 10268 picked up and transported to or are being dropped off from school or a school-sponsored activity;

10269 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 10270 recreation or community center facility or any public library; or

10271 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open
 10272 to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the
 10273 person possessed the controlled substance, *or* imitation controlled substance, ~~or marijuana~~ on the property
 10274 described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the
 10275 controlled substance, *or* imitation controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the
 10276 authorized distribution of controlled substances.

10277 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
 10278 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more
 10279 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense
 10280 involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.)
 10281 ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of
 10282 one year to be served consecutively with any other sentence. However, if such person proves that he sold such
 10283 controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit
 10284 thereby from any consideration received or expected nor to induce the recipient or intended recipient of the
 10285 controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or~~
 10286 ~~marijuana~~, he is guilty of a Class 1 misdemeanor.

10287 C. If a person commits an act violating the provisions of this section, and the same act also violates another
 10288 provision of law that provides for penalties greater than those provided for by this section, then nothing in this
 10289 section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition
 10290 of any penalties provided for thereby.

10291 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

10292 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 10293 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of
 10294 the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is
 10295 frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined
 10296 in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled
 10297 substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled
 10298 substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor,
 10299 manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains
 10300 such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6
 10301 felony.

10302 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

10303 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 10304 dwelling house, apartment or building or structure of any kind which is (i) substantially altered from its original
 10305 status by means of reinforcement with the intent to impede, deter or delay lawful entry by a law-enforcement
 10306 officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances
 10307 ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any
 10308 person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

10309 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,
 10310 deceit or forgery.**

10311 A. ~~It shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to
 10312 procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation,
 10313 embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by
 10314 the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

10315 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any information
 10316 from, or willfully make a false statement in, any prescription, order, report, record, or other document required
 10317 by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

10318 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of a controlled
 10319 substance ~~or marijuana~~ a license number which is fictitious, revoked, suspended, or issued to another person.

10320 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~
 10321 to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician,
 10322 dentist, veterinarian, or other authorized person.

10323 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false or forged
 10324 written order.

10325 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
 10326 containing any controlled substance.

10327 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of
 10328 a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs
 10329 for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any
 10330 pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who
 10331 are acting in the course of their employment; provided that such manufacturer is licensed under the provisions
 10332 of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its
 10333 agents and duly authorized representatives file with the Board such information as the Board may deem
 10334 appropriate.

10335 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein ~~shall~~
 10336 ~~be~~ is guilty of a Class 6 felony.

10337 Whenever any person who has not previously been convicted of any offense under this article or under any
 10338 statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or
 10339 hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense
 10340 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for
 10341 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court
 10342 may place him on probation upon terms and conditions.

10343 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or
 10344 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the
 10345 accused. This program may be located in the judicial circuit in which the charge is brought or in any other
 10346 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by
 10347 the Department of Behavioral Health and Developmental Services. The court shall require the person entering
 10348 such program under the provisions of this section to pay all or part of the costs of the program, including the
 10349 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person
 10350 is determined by the court to be indigent.

10351 As a condition of supervised probation, the court shall require the accused to remain drug free during the
 10352 period of probation and submit to such tests during that period as may be necessary and appropriate to determine
 10353 if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and
 10354 education program to which the person is referred or by the supervising agency.

10355 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the
 10356 original arresting law-enforcement agency to submit to fingerprinting.

10357 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and
 10358 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find
 10359 the defendant guilty of a Class 1 misdemeanor.

10360 **§ 18.2-265.1. Definition.**

10361 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any
 10362 kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3
 10363 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
 10364 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,

10365 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a
 10366 controlled substance. It includes, but is not limited to:

10367 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of
 10368 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be
 10369 derived;

10370 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
 10371 processing, or preparing ~~marijuana~~ or controlled substances;

10372 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or any
 10373 species of plant ~~which~~ *that* is a controlled substance;

10374 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or
 10375 effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to determine
 10376 whether a controlled substance contains fentanyl or a fentanyl analog;

10377 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 10378 controlled substances;

10379 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
 10380 designed for use in cutting controlled substances;

10381 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in
 10382 otherwise cleaning or refining, marijuana;~~

10383 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
 10384 compounding controlled substances;

10385 9-8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging
 10386 small quantities of ~~marijuana~~ or controlled substances;

10387 10-9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~
 10388 or controlled substances;

10389 11-10. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally
 10390 injecting controlled substances into the human body;

10391 12-11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
 10392 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

10393 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens,
 10394 ~~hashish heads,~~ or punctured metal bowls;

10395 b. Water pipes;

10396 c. Carburetion tubes and devices;

10397 d. Smoking and carburetion masks;

10398 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette,~~ that has
 10399 become too small or too short to be held in the hand;

10400 f. Miniature cocaine spoons, and cocaine vials;

10401 g. Chamber pipes;

10402 h. Carburetor pipes;

10403 i. Electric pipes;

10404 j. Air-driven pipes;

10405 k. Chillums;

10406 l. Bongs;

10407 m. Ice pipes or chillers.

10408 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

10409 In determining whether an object is drug paraphernalia, the court may consider, in addition to all other
 10410 relevant evidence, the following:

10411 1. Constitutionally admissible statements by the accused concerning the use of the object;

10412 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to
 10413 the accused;

10414 3. Instructions, oral or written, provided with the object concerning its use;

- 10415 4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;
- 10416 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 10417 6. The manner in which the object is displayed for sale;
- 10418 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed
- 10419 distributor or dealer of tobacco products;
- 10420 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business
- 10421 enterprise;
- 10422 9. The existence and scope of legitimate uses for the object in the community;
- 10423 10. Expert testimony concerning its use or the purpose for which it was designed; *and*
- 10424 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
- 10425 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in
- 10426 control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended
- 10427 for use or designed for use as drug paraphernalia.

10428 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

10429 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under

10430 circumstances where one reasonably should know, that it is either designed for use or intended by such person

10431 for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

10432 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce

10433 into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

10434 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug

10435 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6

10436 felony.

10437 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is*

10438 guilty of a Class 1 misdemeanor.

10439 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

10440 Any person who, while committing a crime of violence as defined in § 18.2-288-~~(2)~~ or a felony violation

10441 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

10442 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4

10443 felony.

10444 **§ 18.2-308.03. Fees for concealed handgun permits.**

10445 A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including

10446 his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency

10447 conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an

10448 investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau

10449 of Investigation for providing criminal history record information, and the local law-enforcement agency shall

10450 forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints

10451 taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs

10452 associated with processing the application. The total amount assessed for processing an application for a permit

10453 shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment

10454 may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be

10455 required until the application is received by the court as a complete application.

10456 B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a

10457 magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority

10458 *or the Virginia Cannabis Control Authority* or as a law-enforcement officer with the Department of State Police,

10459 the Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political

10460 subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-

10461 enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms,

10462 Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration

10463 Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals

10464 Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55;

10465 (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District
10466 of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-
10467 enforcement officer with any combination of the agencies listed in clauses (ii) through (iii), and (iv), after
10468 completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United
10469 States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer
10470 as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized
10471 pursuant to § 53.1-143, after completing 15 years of service.

10472 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

10473 The following persons shall be deemed disqualified from obtaining a permit:

10474 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-
10475 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
10476 United States.

10477 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1,
10478 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
10479 of the United States.

10480 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged
10481 from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his
10482 application for a concealed handgun permit.

10483 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency
10484 or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a
10485 concealed handgun permit.

10486 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from
10487 commitment less than five years before the date of this application for a concealed handgun permit.

10488 5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-
10489 308.1:4 from purchasing, possessing, or transporting a firearm.

10490 6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a
10491 restoration order may be obtained in accordance with subsection C of that section.

10492 7. An individual who has been convicted of two or more misdemeanors within the five-year period
10493 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge
10494 shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions
10495 and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

10496 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
10497 cannabinoids, or any controlled substance.

10498 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
10499 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the
10500 District of Columbia, the United States, or its territories within the three-year period immediately preceding the
10501 application.

10502 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

10503 11. An individual who has been discharged from the armed forces of the United States under dishonorable
10504 conditions.

10505 12. An individual who is a fugitive from justice.

10506 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the
10507 applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police,
10508 or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the
10509 opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying
10510 conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully
10511 or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the
10512 Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer,
10513 or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath
10514 before a notary public of a competent person having personal knowledge of the specific acts.

10515 14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of
 10516 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
 10517 the three-year period immediately preceding the application.

10518 15. An individual who has been convicted of stalking.

10519 16. An individual whose previous convictions or adjudications of delinquency were based on an offense
 10520 that would have been at the time of conviction a felony if committed by an adult under the laws of any state,
 10521 the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions
 10522 occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from
 10523 any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."
 10524 Disqualification under this subdivision shall not apply to an individual with previous adjudications of
 10525 delinquency who has completed a term of service of no less than two years in the Armed Forces of the United
 10526 States and, if such person has been discharged from the Armed Forces of the United States, received an
 10527 honorable discharge.

10528 17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision
 10529 14 or 15.

10530 18. An individual who has received mental health treatment or substance abuse treatment in a residential
 10531 setting within five years prior to the date of his application for a concealed handgun permit.

10532 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
 10533 immediately preceding the application for the permit, was found guilty of any criminal offense set forth in
 10534 *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
 10535 criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled
 10536 substance, under the laws of any state, the District of Columbia, or the United States or its territories.

10537 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-
 10538 year period immediately preceding the application, upon a charge of any criminal offense set forth in *Chapter*
 10539 *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
 10540 illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the
 10541 laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the
 10542 facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the
 10543 substantially similar law of any other state, the District of Columbia, or the United States or its territories.

10544 **§ 18.2-308.012. Prohibited conduct.**

10545 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,
 10546 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction
 10547 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the
 10548 influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-
 10549 51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or
 10550 driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the
 10551 person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a
 10552 violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

10553 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in §
 10554 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted
 10555 by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage
 10556 while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club
 10557 and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection
 10558 shall apply to a federal, state, or local law-enforcement officer.

10559 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

10560 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

10561 1. Any State Police officer retired from the Department of State Police, any officer retired from the Division
 10562 of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired
 10563 from a police department or sheriff's office within the Commonwealth, any special agent retired from the State
 10564 Corporation Commission, the Virginia Alcoholic Beverage Control Authority, or the Virginia Cannabis

10565 *Control Authority*, any employee with internal investigations authority designated by the Department of
10566 Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any
10567 conservation police officer retired from the Department of Wildlife Resources, any conservation officer retired
10568 from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law
10569 Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed
10570 under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any
10571 retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-
10572 217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent
10573 terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any
10574 such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years
10575 of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related
10576 injury, provided such officer carries with him written proof of consultation with and favorable review of the
10577 need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from
10578 which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the
10579 State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis*
10580 *Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief,
10581 Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information
10582 Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired
10583 law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who
10584 receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation
10585 upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement
10586 agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia
10587 Criminal Information Network. However, if such officer retires on disability because of the service-related
10588 injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he
10589 may retain the previously issued written proof of consultation.

10590 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency,
10591 commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-
10592 enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized
10593 under Title 51.1, provided such person carries with him written proof of consultation with and favorable review
10594 of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which
10595 he resigned or, in the case of special agents, issued by the State Corporation Commission~~or~~, the Virginia
10596 Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of
10597 consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of
10598 State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
10599 not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements
10600 of this section.

10601 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services
10602 of the United States or National Guard, while such officer is called to active military duty, provided such officer
10603 carries with him written proof of consultation with and favorable review of the need to carry a concealed
10604 handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be
10605 valid as long as the officer is on active military duty and shall expire when the officer returns to active law-
10606 enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the
10607 Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold
10608 such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-
10609 enforcement duty.

10610 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who
10611 (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during
10612 the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training
10613 for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation
10614 with and favorable review of the need to carry a concealed handgun issued by the attorney for the

10615 Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired
 10616 law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. §
 10617 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the
 10618 Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

10619 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or
 10620 resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant
 10621 attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall
 10622 have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the
 10623 same training and testing to carry firearms as is required of active law-enforcement officers in the
 10624 Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification
 10625 standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one
 10626 year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency
 10627 to carry a firearm.

10628 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
 10629 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review
 10630 pursuant to this section may annually participate and meet the training and qualification standards to carry
 10631 firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned
 10632 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall
 10633 issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the
 10634 retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the
 10635 certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry
 10636 a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the
 10637 Department of State Police for entry into the Virginia Criminal Information Network.

10638 D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any
 10639 person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of
 10640 consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

10641 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses**
 10642 **prohibited.**

10643 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses
 10644 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-
 10645 250.1 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years
 10646 from the date of the second conviction and provided the person has not been convicted of any such offense
 10647 within that period, the ineligibility shall be removed.

10648 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

10649 A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in
 10650 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge
 10651 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and
 10652 distinct felony.

10653 B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in
 10654 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent
 10655 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a
 10656 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum
 10657 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run
 10658 consecutively with, any punishment received for the commission of the primary felony.

10659 C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other
 10660 firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal
 10661 manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled
 10662 substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than~~
 10663 ~~one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct
 10664 felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment

10665 of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with,
10666 any punishment received for the commission of the primary felony.

10667 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**
10668 **alternative nicotine products, and hemp products intended for smoking by a person younger than 21**
10669 **years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp**
10670 **products intended for smoking to persons younger than 21 years of age.**

10671 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person-~~less~~
10672 *younger* than 21 years of age, knowing or having reason to believe that such person is-~~less~~ *younger* than 21
10673 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product
10674 intended for smoking.

10675 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for
10676 smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous
10677 manner and place, indicating that the purchase or possession of such products by persons-~~under~~ *younger than*
10678 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally
10679 accessible to persons-~~under~~ *younger than* 21 years of age. An establishment that prohibits the presence of
10680 persons-~~under~~ *younger than* 21 years of age unless accompanied by a person 21 years of age or older is not
10681 open to the general public.

10682 B. No person-~~less~~ *younger* than 21 years of age shall attempt to purchase, purchase, or possess any tobacco
10683 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The
10684 provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor
10685 products, alternative nicotine products, or hemp products intended for smoking by a person-~~less~~ *younger* than
10686 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products,
10687 or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being
10688 conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use
10689 prevention and cessation and tobacco product regulation, provided that such medical research has been
10690 approved by an institutional review board pursuant to applicable federal regulations or by a research review
10691 committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to
10692 purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is
10693 necessary in the performance of his duties.

10694 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or hemp
10695 product intended for smoking to any individual who does not demonstrate, by producing a driver's license or
10696 similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such
10697 identification is not required from an individual whom the person has reason to believe is at least 21 years of
10698 age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and
10699 reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a
10700 defense to any action brought under this subsection. In determining whether a person had reason to believe an
10701 individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general
10702 appearance, facial characteristics, behavior, and manner of the individual.

10703 This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco
10704 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale
10705 through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, alternative
10706 nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21 years of age
10707 through a commercially available database that is regularly used by businesses or governmental entities for the
10708 purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires
10709 the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative
10710 nicotine product, or hemp product intended for smoking will be released to the purchaser.

10711 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco
10712 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any
10713 active duty military personnel who are 18 years of age or older. An identification card issued by the Armed
10714 Forces of the United States shall be accepted as proof of age for this purpose.

10715 E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a
10716 nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product
10717 other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to
10718 exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

10719 A violation of subsection A or C by an individual or by a separate retail establishment that involves the
10720 sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation,
10721 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
10722 third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its
10723 employees concerning the requirements of this section, the court shall suspend all of the penalties imposed
10724 hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the
10725 court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation
10726 of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended
10727 for smoking, or tobacco product other than a bidi.

10728 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a
10729 civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil
10730 penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service
10731 for a first violation of subsection B and up to 40 hours of community service for a second or subsequent
10732 violation. If the defendant fails or refuses to complete the community service as prescribed, the court may
10733 impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision
10734 A 9 of § 16.1-278.8.

10735 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring
10736 an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer
10737 may issue a summons for a violation of subsection A, B, or C.

10738 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by
10739 the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for
10740 sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
10741 smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco
10742 products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any
10743 person ~~under~~ younger than 21 years of age is prohibited by law. Any attorney for the county, city, or town in
10744 which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a
10745 civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee
10746 or cost shall be charged to the county, city, or town which instituted the action.

10747 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
10748 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
10749 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
10750 such regulations.

10751 3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
10752 enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be
10753 paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which
10754 instituted the action.

10755 G. Nothing in this section shall be construed to create a private cause of action.

10756 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
10757 issue a summons for any violation of this section.

10758 I. As used in this section:

10759 "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for
10760 human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative
10761 nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug
10762 or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the
10763 Federal Food, Drug, and Cosmetic Act.

10764 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or
 10765 tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or
 10766 beedie.

10767 "Hemp product *intended for smoking*" means the same as that term is defined in § 3.2-4112.

10768 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating
 10769 element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of
 10770 shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor
 10771 product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar
 10772 product or device and any cartridge or other container of nicotine in a solution or other form that is intended to
 10773 be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product
 10774 or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21
 10775 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

10776 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco,
 10777 pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative
 10778 nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the
 10779 Federal Food, Drug, and Cosmetic Act.

10780 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking
 10781 in a manner similar to a cigarette or cigar.

10782 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

10783 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the
 10784 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-
 10785 6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction
 10786 when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-
 10787 enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1
 10788 misdemeanor.

10789 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 10790 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
 10791 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his
 10792 duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
 10793 misdemeanor.

10794 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,
 10795 magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully
 10796 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating
 10797 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-
 10798 46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony offense listed in
 10799 subsection C of § 17.1-805, he is guilty of a Class 5 felony.

10800 D. Any person who knowingly and willfully makes any materially false statement or representation to a
 10801 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of
 10802 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

10803 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully
 10804 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,
 10805 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer
 10806 when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he
 10807 is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person
 10808 under arrest, and (b) a reasonable person who receives such communication knows or should know that he is
 10809 not free to leave.

10810 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

10811 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver, attempt
 10812 to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth
 10813 of Virginia, or of any political subdivision thereof, or to any person committed to the Department of Juvenile

10814 Justice in any juvenile correctional center, any drug which is a controlled substance regulated by the Drug
 10815 Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is guilty of a Class 5 felony. Any
 10816 person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such
 10817 prisoner or confined or committed person, firearms, ammunitions, or explosives of any nature is guilty of a
 10818 Class 3 felony.

10819 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

10820 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
 10821 **authorizing interception of communications.**

10822 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
 10823 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in
 10824 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of
 10825 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by
 10826 the Department of State Police, when such interception may reasonably be expected to provide evidence of the
 10827 commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-
 10828 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
 10829 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-
 10830 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
 10831 seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney
 10832 General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the
 10833 interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of
 10834 the United States. Such application shall be made, and such order may be granted, in conformity with the
 10835 provisions of § 19.2-68.

10836 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

10837 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall
 10838 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
 10839 offense was committed, is being committed, or will be committed or the person or persons whose
 10840 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,
 10841 maintain an address or a post office box, or are making the communication within the territorial jurisdiction of
 10842 the court.

10843 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the
 10844 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense
 10845 was committed, is being committed, or will be committed or the physical location of the oral communication
 10846 to be intercepted is within the territorial jurisdiction of the court.

10847 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire
 10848 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where
 10849 the order is entered, regardless of the physical location or the method by which the communication is captured
 10850 or routed to the monitoring location.

10851 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

10852 A. The following officers shall have the powers of arrest as provided in this section:

- 10853 1. Members of the State Police force of the Commonwealth;
- 10854 2. Sheriffs of the various counties and cities, and their deputies;
- 10855 3. Members of any county police force or any duly constituted police force of any city or town of the
 10856 Commonwealth;
- 10857 4. The Commissioner, members and employees of the Marine Resources Commission granted the power
 10858 of arrest pursuant to § 28.2-900;
- 10859 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 10860 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty
 10861 officers authorized under § 29.1-205 to make arrests;
- 10862 7. Conservation officers appointed pursuant to § 10.1-115;

10863 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed
10864 pursuant to § 46.2-217;

10865 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*
10866 *Authority*;

10867 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

10868 11. Members of the Division of Capitol Police.

10869 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the
10870 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a
10871 felony not in his presence.

10872 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of
10873 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a
10874 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order
10875 issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer,
10876 who may obtain a warrant based upon statements made to him by the arresting officer.

10877 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in §
10878 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident
10879 has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any
10880 of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal
10881 investigation, including information obtained from eyewitnesses, that a crime has been committed by any
10882 person then and there present, apprehend such person without a warrant of arrest. For purposes of this section,
10883 "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident
10884 has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to
10885 ensure the safety of the motoring public.

10886 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any
10887 person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or
10888 motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738;
10889 or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the
10890 offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense,
10891 arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating
10892 a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense
10893 was committed in such officer's presence.

10894 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another
10895 jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile printout,
10896 a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile
10897 printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of
10898 such person wanted and the crime alleged.

10899 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in his
10900 presence when the officer receives a radio message from his department or other law-enforcement agency within
10901 the Commonwealth that a warrant or *capias* for such offense is on file.

10902 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their
10903 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying
10904 a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in
10905 violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located
10906 on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is
10907 based on probable cause upon reasonable complaint of the person who observed the alleged offense. The
10908 arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation
10909 involving shoplifting.

10910 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

10911 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,
10912 persons for crimes involving:

- 10913 (a) The escape of an inmate from a correctional institution, as defined in § 53.1-1;
 10914 (b) Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
 10915 (c) The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474 or § 18.2-474.1; and
 10916 (d) Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security
 10917 of the population of a correctional institution.

10918 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

10919 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or
 10920 conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or
 10921 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other
 10922 employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an
 10923 equivalent offense in another state shall file a report of such arrest with the division superintendent of the
 10924 employing division as soon as practicable. The contents of the report required pursuant to this section shall be
 10925 utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and §
 10926 22.1-315.

10927 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or
 10928 conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with
 10929 the division superintendent of the school division in which the student is enrolled upon arresting a person who
 10930 is known or discovered by the arresting official to be a student age 18 or older in any public school division in
 10931 this Commonwealth for:

- 10932 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.),
 10933 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 10934 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 10935 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
 10936 18.2;
- 10937 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 10938 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
 10939 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 10940 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et~~
 10941 ~~seq.) of Chapter 7 of Title 18.2 4.1;~~
- 10942 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 10943 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 10944 9. Robbery pursuant to § 18.2-58;
- 10945 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 10946 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
- 10947 12. An act of violence by a mob pursuant to § 18.2-42.1; or
- 10948 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

10949 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

10950 A. In any preliminary hearing on a violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§
 10951 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
 10952 officer shall be permitted to testify as to the results of field tests that have been approved by the Department of
 10953 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-
 10954 4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a
 10955 controlled substance, imitation controlled substance, or marijuana, as defined in ~~§§ 4.1-600 and~~ 18.2-247.

10956 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
 10957 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the
 10958 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process
 10959 Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is
 10960 marijuana provided the defendant has been given written notice of his right to request a full chemical analysis.
 10961 Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to
 10962 trial.

10963 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
10964 of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior
10965 to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion,
10966 the court shall order that the analysis be performed by the Department of Forensic Science in accordance with
10967 the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of
10968 evidence submitted for chemical analysis.

10969 **§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood,**
10970 **saliva, or tissue sample as condition of probation.**

10971 After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend
10972 the sentence in whole or part and in addition may place the defendant on probation under such conditions as the
10973 court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other
10974 similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial
10975 restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or
10976 to perform community service, or both, under terms and conditions which shall be entered in writing by the
10977 court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar
10978 device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the
10979 court shall file a statement of the reasons for the suspension or modification in the same manner as the statement
10980 required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense
10981 for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of §
10982 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information
10983 has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where
10984 fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the
10985 clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer
10986 as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense.
10987 Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of
10988 subsection D of § 19.2-390.

10989 In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom,
10990 prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva,
10991 or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the
10992 Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any
10993 case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in
10994 any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the
10995 defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer
10996 to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the
10997 sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or
10998 probation officer shall report to the court the defendant's failure to appear and provide the required sample.

10999 After conviction and upon sentencing of an active participant or member of a criminal street gang, the court
11000 may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused
11001 on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such
11002 restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a
11003 member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-
11004 228, shall be permitted unless expressly prohibited by the court.

11005 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-
11006 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
11007 is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to
11008 the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned,
11009 and the defendant shall be placed on probation for that period of suspension subject to revocation by the court.
11010 The conditions of probation may include such conditions as the court shall determine, including active
11011 supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A
11012 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

11013 include active supervision of the defendant under a postrelease supervision program operated by the Department
11014 of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic
11015 monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

11016 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time
11017 before the sentence has been completely served, suspend the unserved portion of any such sentence, place the
11018 person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

11019 If a person has been sentenced for a felony to the Department of Corrections but has not actually been
11020 transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with
11021 the public interest and there are circumstances in mitigation of the offense, may, at any time before the person
11022 is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The
11023 court may place the person on probation for such time as the court shall determine.

11024 *Notwithstanding any other provision of law or rule of court, any person who has been sentenced to jail or*
11025 *to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision (a) (3) of*
11026 *former § 18.2-248.1, (ii) a violation of subsection (d) of former § 18.2-248.1, or (iii) a violation of former §*
11027 *18.2-248.1 where the defendant gave, distributed, or possessed with intent to give or distribute marijuana to a*
11028 *minor, may, at any time before the sentence has been completely served, file a motion with the sentencing court*
11029 *that entered the final judgment or order for a resentencing hearing. If it appears compatible with the public*
11030 *interest and there are circumstances in mitigation of the offense, including the legalization of marijuana, such*
11031 *court may reduce, suspend, or otherwise modify such person's sentence at any time before such person's*
11032 *sentence has been completely served. If the petitioner claims to be indigent, the petitioner shall additionally file*
11033 *with the court a statement of indigency and a request for the appointment of counsel on forms provided by the*
11034 *Supreme Court of Virginia. If the petition is not summarily dismissed and the court finds that the petitioner is*
11035 *entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10 of*
11036 *Title 19.2, the court shall appoint counsel to represent the petitioner.*

11037 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

11038 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
11039 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the
11040 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an
11041 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
11042 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,
11043 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
11044 any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy
11045 to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or
11046 accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has
11047 provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's
11048 evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the
11049 Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of
11050 any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance;
11051 (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance;
11052 and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the
11053 final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1)
11054 information not known to the defendant until more than one year after entry of the final judgment order, (2)
11055 information provided by the defendant within one year of entry of the final judgment order but that did not
11056 become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
11057 information the usefulness of which could not reasonably have been anticipated by the defendant until more
11058 than one year after entry of the final judgment order and which was promptly provided to the Commonwealth
11059 by the defendant after its usefulness was reasonably apparent.

11060 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

11061 A. The following property shall be subject to lawful seizure by any officer charged with enforcing the
11062 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*

11063 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other
 11064 personal and real property of any kind or character, used in substantial connection with (a) the illegal
 11065 manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute
 11066 controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with~~
 11067 ~~intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1~~ *4.1-1103*, or (c)
 11068 a drug-related offense in violation of § *4.1-1117* or 18.2-474.1; (ii) everything of value furnished, or intended
 11069 to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation
 11070 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;
 11071 and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest
 11072 or profits derived from the investment of such money or other property. Under the provisions of clause (i), real
 11073 property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a
 11074 term of not less than five years.

11075 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter
 11076 22.1 (§ 19.2-386.1 et seq.).

11077 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

11078 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
 11079 possession of which is not established or the title to which cannot be ascertained, which have come into the
 11080 custody of a peace officer or have been seized in connection with violations of *Chapter 11 (§ 4.1-1100 et seq.)*
 11081 *of Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

11082 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,
 11083 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such
 11084 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such
 11085 police department or sheriff's office for research and training purposes and for destruction pursuant to
 11086 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of
 11087 Pharmacy once these purposes have been fulfilled.

11088 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such
 11089 substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia,
 11090 the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia
 11091 was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that
 11092 paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or
 11093 entity that makes a showing to the court of sufficient need for the property and an ability to put the property to
 11094 a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction
 11095 shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall
 11096 be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as
 11097 evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency
 11098 recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that
 11099 are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee
 11100 may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same;
 11101 provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and
 11102 the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom
 11103 the order is directed.

11104 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11 (§*
 11105 *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
 11106 this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

11107 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-
 11108 enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25
 11109 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation
 11110 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting
 11111 agency's exceeding the limits allowed by this subsection.

11112 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
11113 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of
11114 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)
11115 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes.
11116 A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the
11117 agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were
11118 used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of
11119 such substance shall be certified to the court along with a statement prepared under oath, reporting a description
11120 of the substance destroyed, and the time, place, and manner of destruction.

11121 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

11122 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with
11123 any prosecution or investigation under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et*
11124 *seq.) of Title 18.2*, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly
11125 selected from the seized substance for representative purposes as evidence and destroy the remainder of the
11126 seized substance.

11127 Before any destruction is carried out under this section, the law-enforcement agency shall cause the material
11128 seized to be photographed with identification case numbers or other means of identification and shall prepare a
11129 report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his
11130 attorney, at least five days in advance that the photography will take place and that they may be present. Prior
11131 to any destruction under this section, the law-enforcement agency shall also notify the accused or other
11132 interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the
11133 destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to
11134 the last known address of the person required to be notified. In addition to the substance retained for
11135 representative purposes as evidence, all photographs and records made under this section and properly identified
11136 shall be admissible in any court proceeding for any purposes for which the seized substance itself would have
11137 been admissible.

11138 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
11139 **substances, etc.**

11140 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take
11141 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled
11142 substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter*
11143 *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
11144 make provision for ensuring integrity of these items until further order of the court.

11145 **§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.**

11146 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
11147 only to:

11148 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
11149 the administration of criminal justice and the screening of an employment application or review of employment
11150 by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia
11151 Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose
11152 of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective
11153 dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record
11154 information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and
11155 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department
11156 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,
11157 and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
11158 highway laws of the Commonwealth for the purposes of the administration of criminal justice;

11159 2. Such other individuals and agencies that require criminal history record information to implement a state
11160 or federal statute or executive order of the President of the United States or Governor that expressly refers to
11161 criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that

11162 information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or
11163 individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has
11164 been recorded and no active prosecution of the charge is pending;

11165 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
11166 services required for the administration of criminal justice pursuant to that agreement which shall specifically
11167 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
11168 confidentiality of the data;

11169 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
11170 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
11171 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

11172 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
11173 of the President of the United States or Governor to conduct investigations determining employment suitability
11174 or eligibility for security clearances allowing access to classified information;

11175 6. Individuals and agencies where authorized by court order or court rule;

11176 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
11177 operated or controlled by any political subdivision, and any public service corporation that operates a public
11178 transit system owned by a local government for the conduct of investigations of applicants for employment,
11179 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly
11180 enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with
11181 the nature of the employment, permit, or license under consideration;

11182 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
11183 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of
11184 employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District
11185 Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would
11186 be compatible with the nature of the employment under consideration;

11187 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
11188 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that
11189 individual's household, with whom the agency is considering placing a child or from whom the agency is
11190 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant
11191 to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any
11192 party other than a federal or state authority or court as may be required to comply with an express requirement
11193 of law;

11194 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
11195 the conduct of investigations of applicants for employment when such employment involves personal contact
11196 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
11197 employment under consideration;

11198 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
11199 including, but not limited to, issuing visas and passports;

11200 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
11201 his cost, except that criminal history record information shall be supplied at no charge to a person who has
11202 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire
11203 company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
11204 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
11205 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in §
11206 15.2-1713.1;

11207 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
11208 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
11209 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
11210 facilities, caretakers, and other adults living in family day homes or homes approved by family day systems,
11211 and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-

11212 1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further
11213 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
11214 Services' representative or a federal or state authority or court as may be required to comply with an express
11215 requirement of law for such further dissemination;

11216 13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
11217 who accept public school employment and those current school board employees for whom a report of arrest
11218 has been made pursuant to § 19.2-83.1;

11219 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-
11220 4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department
11221 of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-
11222 340.15 et seq.) of Chapter 8 of Title 18.2;

11223 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
11224 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
11225 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
11226 limitations set out in subsection E;

11227 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations
11228 of applicants for compensated employment in licensed assisted living facilities and licensed adult day care
11229 centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

11230 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in §
11231 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622*;

11232 18. The State Board of Elections and authorized officers and employees thereof and general registrars
11233 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
11234 registration, limited to any record of felony convictions;

11235 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are
11236 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,
11237 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

11238 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
11239 Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under
11240 § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

11241 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
11242 Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose
11243 of determining applicants' fitness for employment or for providing volunteer or contractual services;

11244 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
11245 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
11246 instructions;

11247 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
11248 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
11249 information on behalf of such governing boards or administrators pursuant to a written agreement with the
11250 Department of State Police;

11251 24. Public institutions of higher education and nonprofit private institutions of higher education for the
11252 purpose of screening individuals who are offered or accept employment;

11253 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
11254 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
11255 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
11256 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
11257 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
11258 that such disclosure was made to the threat assessment team;

11259 26. Executive directors of community services boards or the personnel director serving the community
11260 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored

- 11261 residential service provider, or permission to enter into a shared living arrangement with a person receiving
11262 medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
- 11263 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
11264 determining an individual's fitness for employment, approval as a sponsored residential service provider, or
11265 permission to enter into a shared living arrangement with a person receiving medical assistance services
11266 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
- 11267 28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who
11268 are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address,
11269 demographics and social security number of the data subject shall be released;
- 11270 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter
11271 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of
11272 determining if any applicant who accepts employment in any direct care position or requests approval as a
11273 sponsored residential service provider or permission to enter into a shared living arrangement with a person
11274 receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness
11275 to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
11276 substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;
- 11277 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
11278 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
11279 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
- 11280 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the
11281 purpose of determining if any person being considered for election to any judgeship has been convicted of a
11282 crime;
- 11283 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
11284 determining an individual's fitness for employment in positions designated as sensitive under Department of
11285 Human Resource Management policies developed pursuant to § 2.2-1201.1;
- 11286 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
11287 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
11288 Predators Act (§ 37.2-900 et seq.);
- 11289 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
11290 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the
11291 conduct of investigations of applications for employment or for access to facilities, by contractors, leased
11292 laborers, and other visitors;
- 11293 35. Any employer of individuals whose employment requires that they enter the homes of others, for the
11294 purpose of screening individuals who apply for, are offered, or have accepted such employment;
- 11295 36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
11296 of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing
11297 an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction
11298 that the data shall not be further disseminated by the agency to any party other than a federal or state authority
11299 or court as may be required to comply with an express requirement of law for such further dissemination, subject
11300 to limitations set out in subsection G;
- 11301 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
11302 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
11303 have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program
11304 or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by
11305 the Department of Medical Assistance Services;
- 11306 38. The State Corporation Commission for the purpose of investigating individuals who are current or
11307 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
11308 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of
11309 law, if an application is denied based in whole or in part on information obtained from the Central Criminal

11310 Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his
11311 designee may disclose such information to the applicant or its designee;

11312 39. The Department of Professional and Occupational Regulation for the purpose of investigating
11313 individuals for initial licensure pursuant to § 54.1-2106.1;

11314 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
11315 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
11316 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
11317 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

11318 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

11319 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
11320 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

11321 43. The Department of Social Services and directors of local departments of social services for the purpose
11322 of screening individuals seeking to enter into a contract with the Department of Social Services or a local
11323 department of social services for the provision of child care services for which child care subsidy payments
11324 may be provided;

11325 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
11326 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
11327 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

11328 45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
11329 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

11330 46. Other entities as otherwise provided by law.

11331 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
11332 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
11333 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
11334 whom a report has been made under the provisions of this chapter.

11335 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before
11336 an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice
11337 agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data
11338 covering the person named in the request to the person making the request; however, such person on whom the
11339 data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a
11340 copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the
11341 event no conviction data is maintained on the data subject, the person making the request shall be furnished at
11342 his cost a certification to that effect.

11343 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
11344 section shall be limited to the purposes for which it was given and may not be disseminated further.

11345 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
11346 record information for employment or licensing inquiries except as provided by law.

11347 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
11348 prior to dissemination of any criminal history record information on offenses required to be reported to the
11349 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries
11350 of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and
11351 the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency
11352 to whom a request has been made for the dissemination of criminal history record information that is required
11353 to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records
11354 Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported
11355 to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-
11356 1722.

11357 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
11358 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any
11359 offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

11360 F. Criminal history information provided to licensed assisted living facilities and licensed adult day care
11361 centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense
11362 specified in § 63.2-1720.

11363 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited
11364 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
11365 crime in § 19.2-392.02.

11366 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
11367 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
11368 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
11369 request to the employer or prospective employer making the request, provided that the person on whom the data
11370 is being obtained has consented in writing to the making of such request and has presented a photo-identification
11371 to the employer or prospective employer. In the event no conviction data is maintained on the person named in
11372 the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that
11373 effect. The criminal history record search shall be conducted on forms provided by the Exchange.

11374 I. Nothing in this section shall preclude the dissemination of a person's criminal history record information
11375 pursuant to the rules of court for obtaining discovery or for review by the court.

11376 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

11377 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
11378 only to:

11379 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
11380 the administration of criminal justice and the screening of an employment application or review of employment
11381 by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia
11382 Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose
11383 of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective
11384 dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record
11385 information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and
11386 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department
11387 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,
11388 and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
11389 highway laws of the Commonwealth for the purposes of the administration of criminal justice;

11390 2. Such other individuals and agencies that require criminal history record information to implement a state
11391 or federal statute or executive order of the President of the United States or Governor that expressly refers to
11392 criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that
11393 information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or
11394 individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has
11395 been recorded and no active prosecution of the charge is pending;

11396 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
11397 services required for the administration of criminal justice pursuant to that agreement which shall specifically
11398 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
11399 confidentiality of the data;

11400 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
11401 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
11402 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

11403 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
11404 of the President of the United States or Governor to conduct investigations determining employment suitability
11405 or eligibility for security clearances allowing access to classified information;

11406 6. Individuals and agencies where authorized by court order or court rule;

11407 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
11408 operated or controlled by any political subdivision, and any public service corporation that operates a public
11409 transit system owned by a local government for the conduct of investigations of applicants for employment,

11410 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly
11411 enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with
11412 the nature of the employment, permit, or license under consideration;

11413 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
11414 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of
11415 employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District
11416 Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would
11417 be compatible with the nature of the employment under consideration;

11418 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
11419 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that
11420 individual's household, with whom the agency is considering placing a child or from whom the agency is
11421 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant
11422 to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any
11423 party other than a federal or state authority or court as may be required to comply with an express requirement
11424 of law;

11425 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
11426 the conduct of investigations of applicants for employment when such employment involves personal contact
11427 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
11428 employment under consideration;

11429 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
11430 including, but not limited to, issuing visas and passports;

11431 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
11432 his cost, except that criminal history record information shall be supplied at no charge to a person who has
11433 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire
11434 company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
11435 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
11436 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in §
11437 15.2-1713.1;

11438 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
11439 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
11440 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
11441 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§
11442 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated
11443 by the facility or agency to any party other than the data subject, the Commissioner of Social Services'
11444 representative or a federal or state authority or court as may be required to comply with an express requirement
11445 of law for such further dissemination;

11446 13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
11447 who accept public school employment and those current school board employees for whom a report of arrest
11448 has been made pursuant to § 19.2-83.1;

11449 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-
11450 4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department
11451 of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-
11452 340.15 et seq.) of Chapter 8 of Title 18.2;

11453 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
11454 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
11455 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
11456 limitations set out in subsection E;

11457 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations
11458 of applicants for compensated employment in licensed assisted living facilities and licensed adult day care
11459 centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

- 11460 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in §
11461 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622;*
11462 18. The State Board of Elections and authorized officers and employees thereof and general registrars
11463 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
11464 registration, limited to any record of felony convictions;
11465 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are
11466 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,
11467 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
11468 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
11469 Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under
11470 § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
11471 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
11472 Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose
11473 of determining applicants' fitness for employment or for providing volunteer or contractual services;
11474 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
11475 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
11476 instructions;
11477 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
11478 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
11479 information on behalf of such governing boards or administrators pursuant to a written agreement with the
11480 Department of State Police;
11481 24. Public institutions of higher education and nonprofit private institutions of higher education for the
11482 purpose of screening individuals who are offered or accept employment;
11483 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
11484 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
11485 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
11486 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
11487 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
11488 that such disclosure was made to the threat assessment team;
11489 26. Executive directors of community services boards or the personnel director serving the community
11490 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
11491 residential service provider, or permission to enter into a shared living arrangement with a person receiving
11492 medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
11493 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
11494 determining an individual's fitness for employment, approval as a sponsored residential service provider, or
11495 permission to enter into a shared living arrangement with a person receiving medical assistance services
11496 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
11497 28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who
11498 are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address,
11499 demographics and social security number of the data subject shall be released;
11500 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter
11501 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of
11502 determining if any applicant who accepts employment in any direct care position or requests approval as a
11503 sponsored residential service provider or permission to enter into a shared living arrangement with a person
11504 receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness
11505 to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
11506 substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;
11507 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
11508 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
11509 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

- 11510** 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the
11511 purpose of determining if any person being considered for election to any judgeship has been convicted of a
11512 crime;
- 11513** 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
11514 determining an individual's fitness for employment in positions designated as sensitive under Department of
11515 Human Resource Management policies developed pursuant to § 2.2-1201.1;
- 11516** 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
11517 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
11518 Predators Act (§ 37.2-900 et seq.);
- 11519** 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
11520 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the
11521 conduct of investigations of applications for employment or for access to facilities, by contractors, leased
11522 laborers, and other visitors;
- 11523** 35. Any employer of individuals whose employment requires that they enter the homes of others, for the
11524 purpose of screening individuals who apply for, are offered, or have accepted such employment;
- 11525** 36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
11526 of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing
11527 an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction
11528 that the data shall not be further disseminated by the agency to any party other than a federal or state authority
11529 or court as may be required to comply with an express requirement of law for such further dissemination, subject
11530 to limitations set out in subsection G;
- 11531** 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
11532 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
11533 have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program
11534 or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by
11535 the Department of Medical Assistance Services;
- 11536** 38. The State Corporation Commission for the purpose of investigating individuals who are current or
11537 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
11538 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.
11539 Notwithstanding any other provision of law, if an application is denied based in whole or in part on information
11540 obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the
11541 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its
11542 designee;
- 11543** 39. The Department of Professional and Occupational Regulation for the purpose of investigating
11544 individuals for initial licensure pursuant to § 54.1-2106.1;
- 11545** 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
11546 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
11547 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
11548 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
- 11549** 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
- 11550** 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
11551 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
- 11552** 43. The Department of Education or its agents or designees for the purpose of screening individuals seeking
11553 to enter into a contract with the Department of Education or its agents or designees for the provision of child
11554 care services for which child care subsidy payments may be provided;
- 11555** 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
11556 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
11557 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
- 11558** 45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
11559 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

11560 46. Administrators and board presidents of and applicants for licensure or registration as a child day
11561 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
11562 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
11563 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through
11564 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency
11565 to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal
11566 or state authority or court as may be required to comply with an express requirement of law for such further
11567 dissemination; and

11568 47. Other entities as otherwise provided by law.

11569 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
11570 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
11571 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
11572 whom a report has been made under the provisions of this chapter.

11573 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before
11574 an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice
11575 agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data
11576 covering the person named in the request to the person making the request; however, such person on whom the
11577 data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a
11578 copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the
11579 event no conviction data is maintained on the data subject, the person making the request shall be furnished at
11580 his cost a certification to that effect.

11581 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
11582 section shall be limited to the purposes for which it was given and may not be disseminated further.

11583 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
11584 record information for employment or licensing inquiries except as provided by law.

11585 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
11586 prior to dissemination of any criminal history record information on offenses required to be reported to the
11587 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries
11588 of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and
11589 the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency
11590 to whom a request has been made for the dissemination of criminal history record information that is required
11591 to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records
11592 Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported
11593 to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-
11594 1722.

11595 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
11596 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any
11597 offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

11598 F. Criminal history information provided to licensed assisted living facilities and licensed adult day care
11599 centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense
11600 specified in § 63.2-1720.

11601 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited
11602 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
11603 crime in § 19.2-392.02.

11604 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
11605 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
11606 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
11607 request to the employer or prospective employer making the request, provided that the person on whom the data
11608 is being obtained has consented in writing to the making of such request and has presented a photo-identification
11609 to the employer or prospective employer. In the event no conviction data is maintained on the person named in

11610 the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that
 11611 effect. The criminal history record search shall be conducted on forms provided by the Exchange.

11612 I. Nothing in this section shall preclude the dissemination of a person's criminal history record information
 11613 pursuant to the rules of court for obtaining discovery or for review by the court.

11614 **§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information;**
 11615 **prohibited practices by employers, educational institutions, and state and local governments; penalty.**

11616 A. ~~Records~~ Criminal history record information contained in the Central Criminal Records Exchange,
 11617 including any records relating to ~~the~~ an arrest, criminal charge, or conviction of a person, for a misdemeanor
 11618 violation of § 18.2-248.1 or a violation of § 18.2-250.1, including any violation charged under § 18.2-248.1 or
 11619 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, ~~maintained in the Central Criminal Records~~
 11620 ~~Exchange~~ shall not be open for public inspection or otherwise disclosed, provided that such records may be
 11621 disseminated *and used for the following purposes*: (i) to make the determination as provided in § 18.2-308.2:2
 11622 of eligibility to possess or purchase a firearm; (ii) ~~to aid in the preparation of a pretrial investigation report~~
 11623 ~~prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter~~
 11624 ~~9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation~~
 11625 ~~of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01;~~ (iii) to aid
 11626 local community-based probation services agencies established pursuant to the Comprehensive Community
 11627 Corrections Act for Local Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-
 11628 responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint
 11629 comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System ~~computer~~;
 11630 (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the
 11631 Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant
 11632 to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police
 11633 department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
 11634 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal,
 11635 traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined
 11636 in § 9.1-101; (vii) (iii) to the Virginia Criminal Sentencing Commission for its research purposes; ~~(viii)~~ (iv) to
 11637 any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of
 11638 or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any
 11639 person for full-time or part-time employment with, *or to be a volunteer with*, the State Police or a police
 11640 department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
 11641 thereof; ~~(ix)~~ (v) to the State Health Commissioner or his designee for the purpose of screening any person who
 11642 applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-
 11643 111.5; ~~(x)~~ (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of
 11644 screening any person for full-time or part-time employment with the Department of Forensic Science; ~~(xi)~~ (vii)
 11645 to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a
 11646 public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-
 11647 389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
 11648 medical services agency as provided in § 32.1-111.5; ~~and (xii)~~ (viii) to any full-time or part-time employee of
 11649 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined
 11650 in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
 11651 Administration; (ix) to any employer or prospective employer or its designee where federal law requires the
 11652 employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer
 11653 or its designee where the position that a person is applying for, or where access to the premises in or upon
 11654 which any part of the duties of such position is performed or is to be performed, is subject to any requirement
 11655 imposed in the interest of the national security of the United States under any security program in effect
 11656 pursuant to or administered under any contract with, or statute or regulation of, the United States or any
 11657 Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines,
 11658 or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution;
 11659 (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of

11660 Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to
11661 any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative
11662 Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary
11663 for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge
11664 with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its
11665 designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges
11666 or convictions; (xvi) to any attorney for the Commonwealth and any person accused of a violation of law, or
11667 counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory,
11668 mitigating, and impeachment evidence to an accused; (xvii) to any party in a criminal or civil proceeding for
11669 use as authorized by law in such proceeding; (xviii) to any party for use in a protective order hearing as
11670 authorized by law; (xix) to the Department of Social Services or any local department of social services for
11671 purposes of performing any statutory duties as required under Title 63.2; (xx) to any party in a proceeding
11672 relating to the care and custody of a child for use as authorized by law in such proceeding; (xxi) to determine
11673 a person's eligibility to be empaneled as a juror; and (xxii) to the person arrested, charged, or convicted of the
11674 offense.

11675 B. ~~An employer or~~ Except as provided in subsection C, agencies, officials, and employees of state and local
11676 governments, private employers that are not subject to federal laws or regulations in the hiring process, and
11677 educational-institution institutions shall not, in any application, interview, or otherwise, require an applicant for
11678 employment or admission to disclose information concerning any arrest, criminal charge, or conviction against
11679 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
11680 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
11681 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction
11682 when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant
11683 to subsection A.

11684 C. The provisions of subsection B shall not apply if:

11685 1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with,
11686 the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth
11687 or any political subdivision thereof;

11688 2. This Code requires the employer to make such an inquiry;

11689 3. Federal law requires the employer to make such an inquiry;

11690 4. The position, or access to the premises in or upon which any part of the duties of such position is
11691 performed or is to be performed, is subject to any requirement imposed in the interest of the national security
11692 of the United States under any security program in effect pursuant to or administered under any contract with,
11693 or statute or regulation of, the United States or any Executive Order of the President; or

11694 D. Agencies, officials, and employees of the state and local governments shall not, in any application,
11695 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to
11696 disclose information concerning any arrest, criminal charge, or conviction against him when the record relating
11697 to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An
11698 applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a
11699 reference to or information concerning any arrest, criminal charge, or conviction when the record relating to
11700 such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an
11701 application may not be denied solely because of the applicant's refusal to disclose information concerning any
11702 such arrest, criminal charge, or conviction.

11703 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as
11704 defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or
11705 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for
11706 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
11707 arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal
11708 charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for

11709 *public inspection pursuant to subsection A. Such an application may not be denied solely because of the*
 11710 *applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.*

11711 ~~D-F.~~ *No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined*
 11712 *in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or*
 11713 *conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for*
 11714 *public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any*
 11715 *arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal*
 11716 *charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for*
 11717 *public inspection pursuant to subsection A. Such an application may not be denied solely because of the*
 11718 *applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.*

11719 *G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest,*
 11720 *criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections,*
 11721 *such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest,*
 11722 *criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to*
 11723 *be disclosed in the application. Such notice need not be included on any application for one or more of the*
 11724 *purposes set forth in subsection C.*

11725 *H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or*
 11726 *conviction that is not open for public inspection pursuant to subsection A or any information from such records*
 11727 *among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys*
 11728 *while engaged in the performance of their duties for purposes solely relating to the disclosure or use of*
 11729 *exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related*
 11730 *to the prosecution of a separate crime.*

11731 *I. A person who willfully violates subsection B or C, D, E, or F is guilty of a Class 1 misdemeanor for each*
 11732 *violation.*

11733 **§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and**
 11734 **organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

11735 A. For purposes of this section:

11736 "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,
 11737 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-
 11738 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
 11739 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,
 11740 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-
 11741 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,
 11742 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
 11743 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,
 11744 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-
 11745 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,
 11746 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,
 11747 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,
 11748 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,
 11749 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-
 11750 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 §
 11751 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-
 11752 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,
 11753 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
 11754 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
 11755 substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-
 11756 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-
 11757 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
 11758 the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense

11759 under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's
11760 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901,
11761 including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-
11762 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
11763 with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar
11764 offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes
11765 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)
11766 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of
11767 the conviction.

11768 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
11769 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
11770 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the
11771 barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the
11772 charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier
11773 crime.

11774 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to
11775 children or the elderly or disabled.

11776 "Department" means the Department of State Police.

11777 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
11778 to volunteer for a qualified entity.

11779 "Identification document" means a document made or issued by or under the authority of the United States
11780 government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign
11781 government, an international governmental or an international quasi-governmental organization that, when
11782 completed with information concerning a particular individual, is of a type intended or commonly accepted for
11783 the purpose of identification of individuals.

11784 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
11785 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
11786 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
11787 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

11788 "Qualified entity" means a business or organization that provides care to children or the elderly or disabled,
11789 whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to
11790 subdivision A 7 of § 63.2-1715.

11791 B. A qualified entity may request the Department of State Police to conduct a national criminal background
11792 check on any provider who is employed by such entity. No qualified entity may request a national criminal
11793 background check on a provider until such provider has:

11794 1. Been fingerprinted; and

11795 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
11796 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever
11797 been convicted of or is the subject of pending charges for a criminal offense within or outside the
11798 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars
11799 of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to
11800 the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and
11801 completeness of any information contained in any such report, and to obtain a prompt determination as to the
11802 validity of such challenge before a final determination is made by the Department; and (v) a notice to the
11803 provider that prior to the completion of the background check the qualified entity may choose to deny the
11804 provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

11805 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
11806 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
11807 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
11808 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall

11809 access the national criminal history background check system, which is maintained by the Federal Bureau of
 11810 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
 11811 Criminal Records Exchange maintained by the Department. If the Department receives a background report
 11812 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping
 11813 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
 11814 to a qualified entity's inquiry within 15 business days.

11815 D. Any background check conducted pursuant to this section for a provider employed by a private entity
 11816 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
 11817 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
 11818 in a position that involves unsupervised access to children or the elderly or disabled.

11819 E. Any background check conducted pursuant to this section for a provider employed by a governmental
 11820 entity shall be provided to that entity.

11821 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
 11822 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
 11823 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
 11824 fingerprints.

11825 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
 11826 negligence per se in any civil action.

11827 H. [Expired.]

11828 **§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and**
 11829 **organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

11830 A. For purposes of this section:

11831 "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,
 11832 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-
 11833 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
 11834 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,
 11835 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-
 11836 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,
 11837 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
 11838 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,
 11839 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-
 11840 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,
 11841 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,
 11842 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,
 11843 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,
 11844 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-
 11845 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 §
 11846 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-
 11847 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,
 11848 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
 11849 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
 11850 substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-
 11851 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-
 11852 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
 11853 the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense
 11854 under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's
 11855 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901,
 11856 including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-
 11857 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
 11858 with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar

11859 offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes
11860 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)
11861 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of
11862 the conviction.

11863 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
11864 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
11865 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the
11866 barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the
11867 charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier
11868 crime.

11869 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to
11870 children or the elderly or disabled.

11871 "Department" means the Department of State Police.

11872 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
11873 to volunteer for a qualified entity.

11874 "Identification document" means a document made or issued by or under the authority of the United States
11875 government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign
11876 government, an international governmental or an international quasi-governmental organization that, when
11877 completed with information concerning a particular individual, is of a type intended or commonly accepted for
11878 the purpose of identification of individuals.

11879 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
11880 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
11881 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
11882 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

11883 "Qualified entity" means a business or organization that provides care to children or the elderly or disabled,
11884 whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to
11885 subdivision A 7 of § 22.1-289.030.

11886 B. A qualified entity may request the Department of State Police to conduct a national criminal background
11887 check on any provider who is employed by such entity. No qualified entity may request a national criminal
11888 background check on a provider until such provider has:

11889 1. Been fingerprinted; and

11890 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
11891 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever
11892 been convicted of or is the subject of pending charges for a criminal offense within or outside the
11893 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars
11894 of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to
11895 the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and
11896 completeness of any information contained in any such report, and to obtain a prompt determination as to the
11897 validity of such challenge before a final determination is made by the Department; and (v) a notice to the
11898 provider that prior to the completion of the background check the qualified entity may choose to deny the
11899 provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

11900 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
11901 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
11902 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
11903 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall
11904 access the national criminal history background check system, which is maintained by the Federal Bureau of
11905 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
11906 Criminal Records Exchange maintained by the Department. If the Department receives a background report
11907 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping

11908 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
 11909 to a qualified entity's inquiry within 15 business days.

11910 D. Any background check conducted pursuant to this section for a provider employed by a private entity
 11911 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
 11912 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
 11913 in a position that involves unsupervised access to children or the elderly or disabled.

11914 E. Any background check conducted pursuant to this section for a provider employed by a governmental
 11915 entity shall be provided to that entity.

11916 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
 11917 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
 11918 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
 11919 fingerprints.

11920 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
 11921 negligence per se in any civil action.

11922 H. [Expired.]

11923 **§ 19.2-392.1. Statement of policy.**

11924 The General Assembly finds that arrest records can be a hindrance to ~~an innocent~~ a citizen's ability to obtain
 11925 employment, *and* an education ~~and to obtain credit~~. It further finds that the police and court records of those of
 11926 its citizens who have been absolutely pardoned for crimes for which they have been unjustly convicted *or who*
 11927 *have demonstrated their rehabilitation* can also be a hindrance. This chapter is intended to protect such persons
 11928 from the unwarranted damage ~~which~~ *that* may occur as a result of being arrested and convicted.

11929 **§ 19.2-392.2:1. Former marijuana offenses; automatic expungement.**

11930 A. *Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a misdemeanor*
 11931 *violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under*
 11932 *either section and the charge was deferred and dismissed, shall be ordered to be automatically expunged in*
 11933 *accordance with the provisions of this section.*

11934 B. *No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central*
 11935 *Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection A. The*
 11936 *Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic*
 11937 *expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a*
 11938 *case management system that interfaces with the Department of State Police under subsection B of § 17.1-502.*

11939 C. *Upon receipt of the electronic list from the Department of State Police provided under subsection B, the*
 11940 *Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria*
 11941 *for automatic expungement set forth in subsection A to the clerk of each circuit court in the jurisdiction where*
 11942 *the case was finalized, if such circuit court clerk participates in the case management system maintained by the*
 11943 *Executive Secretary.*

11944 D. *Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit court shall*
 11945 *prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that*
 11946 *meet the criteria for automatic expungement set forth in subsection A be automatically expunged under the*
 11947 *process set forth in subsections E, F, and G. Such order shall contain the names of the persons charged with*
 11948 *or convicted of such offenses.*

11949 E. *The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D*
 11950 *to the Department of State Police. Upon receipt of such order, the Department of State Police (i) shall not*
 11951 *disseminate any criminal history record information contained in the Central Criminal Records Exchange,*
 11952 *including any records relating to an arrest, charge, or conviction, that was ordered to be expunged, except for*
 11953 *purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and*
 11954 *procedures adopted pursuant to § 9.1-134 and (ii) shall electronically notify those agencies and individuals*
 11955 *known to maintain or to have obtained such a record that such record has been ordered to be expunged and*
 11956 *may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted*
 11957 *pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically*

11958 *that are transformed or transferred by whatever means to an offline system or to a confidential and secure area*
11959 *inaccessible from normal use within the system in which the record is maintained shall be considered expunged,*
11960 *provided that such records are accessible only to the manager of the records or their designee.*

11961 *F. Records relating to an arrest, charge, or conviction that was ordered to be expunged pursuant to this*
11962 *section shall not be open for public inspection or otherwise disclosed, provided that such records may be*
11963 *disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2*
11964 *of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints*
11965 *maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing*
11966 *Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police*
11967 *department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision*
11968 *thereof for the purpose of screening any person for full-time employment or part-time employment with, or to*
11969 *be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered*
11970 *by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee*
11971 *for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency*
11972 *medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the*
11973 *Department of Forensic Science for the purpose of screening any person for full-time or part-time employment*
11974 *with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee*
11975 *who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in*
11976 *accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a*
11977 *volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to*
11978 *any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-*
11979 *341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the*
11980 *regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer*
11981 *or its designee where federal law requires the employer to inquire about prior criminal charges or convictions;*
11982 *(x) to any employer or prospective employer or its designee where the position that a person is applying for, or*
11983 *where access to the premises in or upon which any part of the duties of such position is performed or is to be*
11984 *performed, is subject to any requirement imposed in the interest of the national security of the United States*
11985 *under any security program in effect pursuant to or administered under any contract with, or statute or*
11986 *regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage*
11987 *in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting*
11988 *such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth*
11989 *in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of*
11990 *Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive*
11991 *Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and*
11992 *the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time*
11993 *employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any*
11994 *employer or prospective employer or its designee where this Code or a local ordinance requires the employer*
11995 *to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its*
11996 *designee that is allowed access to such expunged records in accordance with the rules and regulations adopted*
11997 *pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service*
11998 *for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person*
11999 *accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and*
12000 *statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party*
12001 *in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a*
12002 *protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local*
12003 *department of social services for purposes of performing any statutory duties as required under Title 63.2;*
12004 *(xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in*
12005 *such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining*
12006 *eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility*

12007 *to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was*
12008 *expunged.*

12009 *G. The Department of Motor Vehicles shall not expunge any conviction or any charge that was deferred*
12010 *and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory*
12011 *record retention requirements or (ii) in violation of federal program requirements if the Department of Motor*
12012 *Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal*
12013 *ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of*
12014 *Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all*
12015 *federal program requirements associated with a suspension have been satisfied. However, if the Department of*
12016 *Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department*
12017 *of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged*
12018 *and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State*
12019 *Police of the date, if known at the time when the expungement is ordered, on which such record can be*
12020 *expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record*
12021 *has been expunged within the Department of Motor Vehicles' records.*

12022 *H. All electronic lists created in accordance with this section are not subject to further dissemination unless*
12023 *explicitly provided for by this section. Any expungement order issued pursuant to this section shall be sealed*
12024 *and may only be disseminated for the purposes set forth in this section and pursuant to rules and regulations*
12025 *adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any willful and intentional*
12026 *unlawful dissemination is punishable as an unlawful dissemination of criminal history record information in*
12027 *violation of § 9.1-136.*

12028 **§ 19.2-392.2:2. Former marijuana offenses; petition for expungement.**

12029 *A. A person who has been convicted or adjudicated delinquent of a felony violation of former § 18.2-248.1*
12030 *or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or charged under either section and*
12031 *the charge is deferred and dismissed, may file a petition setting forth the relevant facts and requesting*
12032 *expungement of the police records and the court records relating to the arrest, charge, conviction, or*
12033 *adjudication.*

12034 *B. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in*
12035 *the circuit court of the county or city in which the case was disposed of and shall contain, except where not*
12036 *reasonably available, the date of arrest and the name of the arresting agency. Where this information is not*
12037 *reasonably available, the petition shall state the reason for such unavailability. The petition shall further state*
12038 *the specific criminal charge, conviction, or adjudication to be expunged, the date of final disposition of the*
12039 *charge, conviction, or adjudication as set forth in the petition, the petitioner's date of birth, and the full name*
12040 *used by the petitioner at the time of arrest.*

12041 *C. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in*
12042 *which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition*
12043 *or may give written notice to the court that he does not object to the petition within 21 days after it is served on*
12044 *him.*

12045 *D. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's*
12046 *fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement*
12047 *agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of*
12048 *the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's*
12049 *criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to*
12050 *expunge, if applicable, and the set of fingerprints. Upon completion of the hearing, the court shall return the*
12051 *fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or*
12052 *an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless,*
12053 *within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in*
12054 *person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the*
12055 *return of the fingerprint card.*

12056 *E. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing*
12057 *on the petition. If the court finds that the continued existence and possible dissemination of information relating*
12058 *to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that*
12059 *constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police*
12060 *and court records, including electronic records, relating to the arrest, charge, conviction, or adjudication.*
12061 *Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest,*
12062 *charge, conviction, or adjudication was for a misdemeanor violation of subsection A of § 18.2-265.3, the*
12063 *petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to*
12064 *expungement of the police and court records relating to the arrest, charge, conviction, or adjudication and the*
12065 *court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which*
12066 *the petition is filed (i) gives written notice to the court pursuant to subsection C that he does not object to the*
12067 *petition and (ii) when the arrest, charge, conviction, or adjudication to be expunged is a felony violation of*
12068 *former § 18.2-248.1, stipulates in such written notice that the continued existence and possible dissemination*
12069 *of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause*
12070 *circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of expungement*
12071 *without conducting a hearing.*

12072 *F. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the*
12073 *decision of the court may appeal, as provided by law in civil cases.*

12074 *G. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be*
12075 *forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant*
12076 *to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be*
12077 *effected.*

12078 *H. Records relating to an arrest, charge, conviction, or adjudication that was ordered to be expunged*
12079 *pursuant to this section shall not be open for public inspection or otherwise disclosed, provided that such*
12080 *records may be disseminated and used for the following purposes: (i) to make the determination as provided in*
12081 *§ 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the*
12082 *fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal*
12083 *Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police*
12084 *or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political*
12085 *subdivision thereof for the purpose of screening any person for full-time employment or part-time employment*
12086 *with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or*
12087 *administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner*
12088 *or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of*
12089 *an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee*
12090 *of the Department of Forensic Science for the purpose of screening any person for full-time or part-time*
12091 *employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality,*
12092 *or his designee who shall be an individual employed as a public safety official of the locality, that has adopted*
12093 *an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who*
12094 *applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-*
12095 *111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as*
12096 *defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying*
12097 *with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective*
12098 *employer or its designee where federal law requires the employer to inquire about prior criminal charges or*
12099 *convictions; (x) to any employer or prospective employer or its designee where the position that a person is*
12100 *applying for, or where access to the premises in or upon which any part of the duties of such position is*
12101 *performed or is to be performed, is subject to any requirement imposed in the interest of the national security*
12102 *of the United States under any security program in effect pursuant to or administered under any contract with,*
12103 *or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person*
12104 *authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for*
12105 *purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis*

12106 *and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the*
 12107 *Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court,*
 12108 *the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee*
 12109 *for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for*
 12110 *full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive*
 12111 *Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance*
 12112 *requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or*
 12113 *prospective employer or its designee that is allowed access to such expunged records in accordance with the*
 12114 *rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to*
 12115 *any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the*
 12116 *Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply*
 12117 *with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to*
 12118 *an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding;*
 12119 *(xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social*
 12120 *Services or any local department of social services for purposes of performing any statutory duties as required*
 12121 *under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as*
 12122 *authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes*
 12123 *of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a*
 12124 *person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, convicted, or*
 12125 *adjudicated delinquent of the offense that was expunged.*

12126 *I. The Department of Motor Vehicles shall not expunge any conviction, adjudication, or any charge that*
 12127 *was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal*
 12128 *regulatory record retention requirements or (ii) in violation of federal program requirements if the Department*
 12129 *of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction, adjudication,*
 12130 *or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be*
 12131 *expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention*
 12132 *period has run and all federal program requirements associated with a suspension have been satisfied.*
 12133 *However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the*
 12134 *time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the*
 12135 *reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered;*
 12136 *(b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on*
 12137 *which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of*
 12138 *State Police when such record has been expunged within the Department of Motor Vehicles' records.*

12139 *J. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the*
 12140 *court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the*
 12141 *petitioner.*

12142 *K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in*
 12143 *this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and*
 12144 *notice made within three years of the entry of such order.*

12145 **§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of state and**
 12146 **local governments.**

12147 *A. An employer or educational institution shall not, in any application, interview, or otherwise, require an*
 12148 *applicant for employment or admission to disclose information concerning any arrest-~~or~~, criminal charge against*
 12149 *him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question*
 12150 *concerning any arrest-~~or~~, criminal charge ~~that has not resulted in a~~, conviction, or civil offense, include a*
 12151 *reference to or information concerning arrests-~~or~~, charges, convictions, or civil offenses that have been*
 12152 *expunged.*

12153 *B. Agencies, officials, and employees of the state and local governments shall not, in any application,*
 12154 *interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to*
 12155 *disclose information concerning any arrest-~~or~~, criminal charge against him, conviction, or civil offense that has*

12156 been expunged. An applicant need not, in answer to any question concerning any arrest-~~or~~, criminal charge-~~that~~
 12157 ~~has not resulted in a~~, conviction, *or civil offense* include a reference to or information concerning *an arrest*,
 12158 charges, *convictions*, *or civil offenses* that have been expunged. Such an application may not be denied solely
 12159 because of the applicant's refusal to disclose information concerning any arrest-~~or~~, criminal charge against him,
 12160 *conviction*, *or civil offense* that has been expunged.

12161 C. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

12162 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine**
 12163 **products.**

12164 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by
 12165 the Board of Education.

12166 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,
 12167 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic
 12168 Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials
 12169 to the Department of Education. The Department of Education shall review and shall distribute such materials
 12170 as are approved to the public schools.

12171 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall
 12172 distribute to each local school division educational materials concerning the health and safety risks of using
 12173 tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in §
 12174 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor
 12175 products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each
 12176 public elementary and secondary school in the Commonwealth, consistent with such educational materials.

12177 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

12178 A. School boards shall expel from school attendance any student whom such school board has determined,
 12179 in accordance with the procedures set forth in this article, to have brought a controlled substance; *or* imitation
 12180 controlled substance; ~~or marijuana~~ as *those terms* are defined in § 18.2-247 onto school property or to a school-
 12181 sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however,
 12182 determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action
 12183 or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation,
 12184 authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine
 12185 whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a
 12186 determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action
 12187 is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed
 12188 to require a student's expulsion regardless of the facts of the particular situation.

12189 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this
 12190 section no later than three months after the date on which this act becomes effective.

12191 **§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

12192 A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was killed in
 12193 the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer
 12194 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special
 12195 forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic
 12196 Beverage Control Authority *or the Virginia Cannabis Control Authority*, state correctional, regional or local
 12197 jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia
 12198 National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or
 12199 (iii) member of the Virginia Defense Force while serving on official state duty, and any individual whose spouse
 12200 was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of
 12201 undergraduate tuition and mandatory fees at any public institution of higher education under the following
 12202 conditions:

12203 1. The chief executive officer of the deceased individual's employer certifies that such individual was so
 12204 employed and was killed in the line of duty while serving or living in the Commonwealth; and

12205 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and applies
 12206 to such institution for the waiver. Waiver recipients who make satisfactory academic progress are eligible for
 12207 renewal of such waiver.

12208 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and
 12209 mandatory educational and auxiliary fees, and books and supplies but shall not waive user fees such as room
 12210 and board charges.

12211 C. Each public institution of higher education shall include in its catalog or equivalent publication a
 12212 statement describing the benefits available pursuant to this section.

12213 **§ 23.1-1301. Governing boards; powers.**

12214 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 12215 1. Make regulations and policies concerning the institution;
- 12216 2. Manage the funds of the institution and approve an annual budget;
- 12217 3. Appoint the chief executive officer of the institution;
- 12218 4. Appoint professors and fix their salaries; and
- 12219 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

12220 B. The governing board of each public institution of higher education or its designee may:

12221 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative
 12222 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired
 12223 by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of
 12224 the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as
 12225 all other gifts and bequests;

12226 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes
 12227 on any property owned by the institution;

12228 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,
 12229 or controlled by the institution;

12230 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
 12231 instructors, and other employees;

12232 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the
 12233 regulations or institution policies required pursuant to § 23.1-1303;

12234 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission
 12235 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such
 12236 regulations or policies;

12237 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote
 12238 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness
 12239 and prevention of sexual crimes committed upon students;

12240 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in
 12241 accordance with the prohibition against hazing as defined in § 18.2-56;

12242 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an
 12243 interest, provided such assignment is in accordance with the terms of the institution's intellectual property
 12244 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such
 12245 property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital
 12246 assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or
 12247 (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment
 12248 Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations,
 12249 colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor
 12250 may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve
 12251 such transfer, the materials shall remain the property of the respective institutions and may be used and
 12252 developed in any manner permitted by law;

12253 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public
 12254 body" for purposes of subsection D of § 2.2-3708.2; and

12255 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to
 12256 enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution.
 12257 Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances
 12258 with respect to offenses occurring on the property of the institution.

12259 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**

12260 Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed
 12261 to fill an elective office, residing within the jurisdiction of the court:

12262 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of
 12263 duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the
 12264 conduct of the office;

12265 2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1
 12266 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

12267 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a
 12268 controlled substance ~~or marijuana~~;

12269 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
 12270 paraphernalia; or

12271 c. Possession of any controlled substance ~~or marijuana~~ and such conviction under subdivision a, b, or c has
 12272 a material adverse effect upon the conduct of such office;

12273 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate
 12274 crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct
 12275 of such office; or

12276 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-
 12277 67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or
 12278 enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in
 12279 violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of
 12280 § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

12281 The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer
 12282 equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that the officer holds.

12283 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently
 12284 subject to the provisions of this section for the same criminal offense.

12285 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

12286 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following
 12287 persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the
 12288 payment of toll while in the performance of their official duties:

12289 1. The Commissioner of Highways;

12290 2. Members of the Commonwealth Transportation Board;

12291 3. Employees of the Department of Transportation;

12292 4. The Superintendent of the Department of State Police;

12293 5. Officers and employees of the Department of State Police;

12294 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the Board*
 12295 *of Directors of the Virginia Cannabis Control Authority*;

12296 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority
 12297 *or the Virginia Cannabis Control Authority* and special agents of the Virginia Alcoholic Beverage Control
 12298 Authority *or the Virginia Cannabis Control Authority*;

12299 8. The Commissioner of the Department of Motor Vehicles;

12300 9. Employees of the Department of Motor Vehicles;

12301 10. Local police officers;

12302 11. Sheriffs and their deputies;

12303 12. Regional jail officials;

12304 13. Animal wardens;

- 12305 14. The Director and officers of the Department of Wildlife Resources;
- 12306 15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-
- 12307 111.1;
- 12308 16. Operators of school buses being used to transport pupils to or from schools;
- 12309 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and
- 12310 used to regularly transport workers to and from their places of employment and (ii) public transit buses;
- 12311 18. Employees of the Department of Rail and Public Transportation;
- 12312 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of
- 12313 1988; and
- 12314 20. Law-enforcement officers of the Virginia Marine Resources Commission.
- 12315 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of
- 12316 such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the
- 12317 Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk
- 12318 to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the
- 12319 temporary suspension of toll collection operations on its facilities.
- 12320 1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend
- 12321 toll collection operations shall be made by the Commissioner of Highways or his designee.
- 12322 2. Major incidents that may require the temporary suspension of toll collection operations shall include (i)
- 12323 natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials,
- 12324 such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents
- 12325 deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in
- 12326 § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones
- 12327 on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection
- 12328 when the mandatory evacuation period ends.
- 12329 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for
- 12330 any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess
- 12331 against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that
- 12332 such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for
- 12333 deposit into the toll road fund.
- 12334 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll
- 12335 ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a
- 12336 fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who
- 12337 exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of
- 12338 a Class 1 misdemeanor.
- 12339 D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3
- 12340 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a
- 12341 motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities
- 12342 in the Commonwealth if:
- 12343 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 12344 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any
- 12345 other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely
- 12346 physically disabled and having permanent upper limb mobility or dexterity impairments that substantially
- 12347 impair his ability to deposit coins in toll baskets;
- 12348 3. The driver has applied for and received from the Department of Transportation a vehicle window sticker
- 12349 identifying him as eligible for such free passage; and
- 12350 4. Such identifying window sticker is properly displayed on the vehicle.
- 12351 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the
- 12352 Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those
- 12353 persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

12354 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of
12355 § 22.1-187.

12356 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the
12357 Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities
12358 of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§
12359 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

- 12360 1. The Commissioner of Highways;
- 12361 2. Members of the Commonwealth Transportation Board;
- 12362 3. Employees of the Department of Transportation;
- 12363 4. The Superintendent of the Department of State Police;
- 12364 5. Officers and employees of the Department of State Police;
- 12365 6. The Commissioner of the Department of Motor Vehicles;
- 12366 7. Employees of the Department of Motor Vehicles; and
- 12367 8. Sheriffs and deputy sheriffs.

12368 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the
12369 Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations
12370 on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation
12371 Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation
12372 zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the
12373 applicable comprehensive agreement between the operator and the Department. The Commissioner of
12374 Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the
12375 mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the
12376 same affected area, whichever occurs first.

12377 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia
12378 controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of
12379 subdivisions D 1 through 4.

12380 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the
12381 Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1
12382 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia
12383 Highway Corporation Act of 1988 (§ 56-535 et seq.).

12384 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

12385 A. It ~~shall be~~ *is* unlawful for any person to obtain a Virginia driver's license, special identification card,
12386 vehicle registration, certificate of title, or other document issued by the Department if such person has not
12387 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled
12388 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or
12389 altered documents.

12390 B. It ~~shall be~~ *is* unlawful to aid any person to obtain any driver's license, special identification card, vehicle
12391 registration, certificate of title, or other document in violation of the provisions of subsection A.

12392 C. It ~~shall be~~ *is* unlawful to knowingly possess or use for any purpose any driver's license, special
12393 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
12394 provisions of subsection A.

12395 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged
12396 and convicted of a violation of this section that involved the unlawful obtaining or possession of any document
12397 issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to
12398 obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and
12399 convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

12400 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
12401 identification card, vehicle registration, certificate of title, or other document issued by the Department has been
12402 obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the
12403 cancellation to the address of record maintained by the Department.

12404 § 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.

12405 A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor
12406 vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or town attorney
12407 may prosecute such a case.

12408 Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in
12409 which marijuana was found shall not create a presumption that such person either knowingly or intentionally
12410 possessed such marijuana.

12411 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of this
12412 section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited into the Drug
12413 Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations of this section by
12414 an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

12415 B. Any violation of this section shall be charged by summons. A summons for a violation of this section may
12416 be executed by a law-enforcement officer when such violation is observed by such officer. The summons used
12417 by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for
12418 motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for
12419 violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not
12420 include records of any charges or judgments for a violation of this section, and records of such charges or
12421 judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be
12422 reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

12423 C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law
12424 for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided
12425 in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove
12426 its case beyond a reasonable doubt.

12427 D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-
12428 enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs
12429 trained in the detection of controlled substances when possession of marijuana is necessary for the performance
12430 of their duties.

12431 E. The provisions of this section involving marijuana in the form of cannabis oil as that term is defined in
12432 § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to a valid written certification
12433 issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to
12434 alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or
12435 guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's
12436 diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to §
12437 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal
12438 guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's
12439 diagnosed condition or disease.

12440 § 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to
12441 obtain alcoholic beverages; penalties.

12442 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive
12443 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the
12444 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States
12445 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of
12446 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign
12447 government agency; or official student identification card of an institution of higher education to obtain
12448 alcoholic beverages shall be or marijuana is guilty of a Class 3 misdemeanor, and upon conviction of a violation
12449 of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor
12450 vehicle for a period of not less than 30 days nor more than one year.

12451 § 48-17.1. Temporary injunctions against alcoholic beverage sales.

12452 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
12453 temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia Alcoholic

12454 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be
 12455 the operator of the establishment has allowed it to become a meeting place for persons committing serious
 12456 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be
 12457 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer
 12458 of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at
 12459 a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana*
 12460 at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of
 12461 exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held
 12462 within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place
 12463 of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing.
 12464 Any injunction issued by the court shall be dissolved in the event the court later finds that the threat to public
 12465 safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or
 12466 business operations at the establishment, or other change in circumstance.

12467 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall
 12468 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic
 12469 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the
 12470 activities at the establishment complained of and conduct an administrative hearing. After the Virginia
 12471 Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority* hearing and when a final
 12472 determination has been issued by the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis*
 12473 *Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action
 12474 by the complainant, respondent, or the court.

12475 **§ 51.1-212. Definitions.**

12476 As used in this chapter, unless the context requires a different meaning:

12477 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus
 12478 police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii)
 12479 conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter
 12480 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority
 12481 appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia*
 12482 *Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*, (v)
 12483 law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101,
 12484 (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a
 12485 juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole officer appointed pursuant to §
 12486 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer employed by the Department of State Police.

12487 "Member" means any person included in the membership of the Retirement System as provided in this
 12488 chapter.

12489 "Normal retirement date" means a member's sixtieth birthday.

12490 "Retirement System" means the Virginia Law Officers' Retirement System.

12491 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

12492 This section shall apply to any person who is not a qualified voter because of a felony conviction, who
 12493 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the
 12494 conditions and requirements set out in this section.

12495 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection
 12496 C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to ~~§§~~ § 4.1-1101, 4.1-1114,
 12497 18.2-248, 18.2-248.01, ~~48.2-248.1~~, 18.2-255, 18.2-255.2, or ~~§~~ 18.2-258.02; or (iii) convicted of a felony
 12498 pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a
 12499 felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right
 12500 to be eligible to register to vote through the process set out in this section. On such petition, the court may
 12501 approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented
 12502 that the petitioner has completed, five or more years previously, service of any sentence and any modification
 12503 of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic

12504 responsibility through community or comparable service; and that the petitioner has been free from criminal
 12505 convictions, excluding traffic infractions, for the same period.

12506 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,
 12507 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to
 12508 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to
 12509 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall
 12510 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible
 12511 to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days
 12512 of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of
 12513 that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition
 12514 for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The
 12515 Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or
 12516 denial of restoration by the Governor.

12517 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
 12518 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

12519 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

12520 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as
 12521 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public
 12522 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"
 12523 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation
 12524 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or
 12525 relieve those suffering from any injury, deformity or disease.

12526 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
 12527 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other
 12528 remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the
 12529 healing arts within the meaning of this chapter except where persons other than physicians are required to sign
 12530 birth certificates.

12531 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing
 12532 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation
 12533 or designation, or other language that identifies the type of practice for which he is licensed. No person regulated
 12534 under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247 54.1-
 12535 3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this
 12536 subsection shall prevent a person from including in any advertisement that such person is registered with the
 12537 Board of Pharmacy to issue written certifications for the use of cannabis oil, as defined in § 54.1-3408.3.

12538 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

12539 A. As used in this section:

12540 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include ~~oil from~~
 12541 industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the
 12542 resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic
 12543 acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does
 12544 not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state
 12545 or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical
 12546 processor.

12547 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a
 12548 physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of
 12549 Medicine and the Board of Nursing.

12550 "Registered agent" means an individual designated by a patient who has been issued a written certification,
 12551 or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's
 12552 parent or legal guardian, and registered with the Board pursuant to subsection G.

12553 B. A practitioner in the course of his professional practice may issue a written certification for the use of
12554 cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the
12555 practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the
12556 manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with
12557 federal requirements for the prescribing of Schedule II through V controlled substances.

12558 C. The written certification shall be on a form provided by the Office of the Executive Secretary of the
12559 Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain
12560 the name, address, and telephone number of the practitioner, the name and address of the patient issued the
12561 written certification, the date on which the written certification was made, and the signature of the practitioner.
12562 Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance
12563 unless the practitioner provides in such written certification an earlier expiration.

12564 D. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248-~~or~~*
12565 ~~18.2-248.1~~ for dispensing or distributing cannabis oil for the treatment or to alleviate the symptoms of a patient's
12566 diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in
12567 this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate
12568 or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or
12569 treating medical conditions.

12570 E. A practitioner who issues a written certification to a patient pursuant to this section shall register with
12571 the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to
12572 whom a practitioner may issue a written certification.

12573 F. A patient who has been issued a written certification shall register with the Board or, if such patient is a
12574 minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and
12575 shall register such patient with the Board.

12576 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's
12577 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving
12578 cannabis oil pursuant to a valid written certification. Such designated individual shall register with the Board.
12579 The Board may set a limit on the number patients for whom any individual is authorized to act as a registered
12580 agent.

12581 H. The Board shall promulgate regulations to implement the registration process. Such regulations shall
12582 include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient
12583 being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as
12584 defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the
12585 information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written
12586 certification by more than one practitioner during any given time period.

12587 I. Information obtained under the registration process shall be confidential and shall not be subject to the
12588 disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable
12589 access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of
12590 Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for
12591 the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed
12592 practitioners or pharmacists for the purpose of providing patient care and drug therapy management and
12593 monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing
12594 facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if
12595 such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian,
12596 but only with respect to information related to such registered patient.

12597 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

12598 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first
12599 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the
12600 Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or
12601 cannabis dispensing facility. The Board shall establish an application fee and other general requirements for
12602 such application.

12603 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits
12604 that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis
12605 dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed
12606 in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

12607 C. The Board shall adopt regulations establishing health, safety, and security requirements for
12608 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for
12609 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and
12610 resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely
12611 and securely dispensing and delivering in person cannabis oil to a registered patient, his registered agent, or, if
12612 such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian;
12613 (ix) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams
12614 of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of cannabis oil
12615 products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing
12616 facility; (xi) an allowance for the sale of devices for administration of dispensed products; (xii) an allowance
12617 for the use and distribution of inert product samples containing no cannabinoids for patient demonstration
12618 exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or
12619 sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp
12620 extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The
12621 Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for
12622 safely and securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of
12623 marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant
12624 remains; and (d) a process for registering cannabis oil products.

12625 D. The Board shall require that, after processing and before dispensing cannabis oil, a pharmaceutical
12626 processor shall make a sample available from each homogenized batch of product for testing by an independent
12627 laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined
12628 by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures.
12629 A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized
12630 batch is required to achieve a representative sample for analysis.

12631 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
12632 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board
12633 in regulation.

12634 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision
12635 of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A
12636 pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas
12637 designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the
12638 premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate
12639 to protect the cannabis from diversion at all times.

12640 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility
12641 permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his
12642 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the
12643 purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and
12644 the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall
12645 forward the results of the criminal history background check to the Board or its designee, which shall be a
12646 governmental entity.

12647 H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
12648 individuals who may have less than two years of experience (i) to perform cultivation-related duties under the
12649 supervision of an individual who has received a degree in horticulture or a certification recognized by the Board
12650 or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under
12651 the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of
12652 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 *Chapter 11 (§ 4.1-1100 et seq.) of Title 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 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~~ *Industrial hemp extract* 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 *extract* 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;

- 12702 2. Acts performed or words spoken, published, or shared with another agency or subdivision of the
12703 Commonwealth in the line of duty under state law;
- 12704 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly
12705 constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study,
12706 provided that any such information obtained shall be privileged;
- 12707 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any
12708 information required for building permits;
- 12709 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant
12710 to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the
12711 commissioner of accounts making a settlement of accounts filed in such estate;
- 12712 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
12713 requested by the General Assembly or any duly constituted committee of the General Assembly;
- 12714 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions
12715 of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a
12716 tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and
12717 are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to
12718 § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney
12719 General receives Stamping Agent information that potentially alters the required escrow deposit of the
12720 manufacturer. The information shall only be provided in the following manner: the manufacturer may make a
12721 written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of
12722 a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping
12723 Agents who reported stamping or selling its products and the amount reported. The Attorney General shall
12724 provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of
12725 the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping
12726 Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to
12727 subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a
12728 copy of the prior written request to the Stamping Agent and any response received, for copies of any reports
12729 not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.
- 12730 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified
12731 as to prevent the identification of particular reports or returns and the items thereof or the publication of
12732 delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant
12733 information which in the opinion of the Department may assist in the collection of such delinquent taxes.
12734 Notwithstanding any other provision of this section or other law, the Department, upon request by the General
12735 Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount
12736 of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the
12737 deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax
12738 official from disclosing whether a person, firm or corporation is licensed to do business in that locality and
12739 divulging, upon written request, the name and address of any person, firm or corporation transacting business
12740 under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue
12741 is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with
12742 information obtained from local tax returns and other information pertaining to the income, sales and property
12743 of any person, firm or corporation licensed to do business in that locality.
- 12744 2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is
12745 registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate
12746 of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law,
12747 the Department is hereby authorized to make available the names and certificate of registration numbers of
12748 dealers who are currently registered for retail sales and use tax.
- 12749 3. This section shall not prohibit the Department from disclosing information to nongovernmental entities
12750 with which the Department has entered into a contract to provide services that assist it in the administration of
12751 refund processing or other services related to its administration of taxes.

12752 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding
12753 whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer
12754 submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision
12755 C 1 of § 58.1-478.

12756 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other
12757 similar local official who collects or administers taxes for a county, city, or town from disclosing information
12758 to nongovernmental entities with which the locality has entered into a contract to provide services that assist it
12759 in the administration of refund processing or other non-audit services related to its administration of taxes. The
12760 commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or
12761 administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained
12762 a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties
12763 set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

12764 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
12765 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of
12766 finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties,
12767 requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the
12768 Department of Social Services, upon entering into a written agreement, the amount of income, filing status,
12769 number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal
12770 Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been
12771 claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits
12772 as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or
12773 as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned
12774 income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income
12775 taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan
12776 guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those
12777 persons identified by the designated guarantor as having delinquent loans guaranteed by the designated
12778 guarantor; (iv) provide current address information upon request to state agencies and institutions for their
12779 confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court
12780 for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in
12781 that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a
12782 written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes
12783 and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority *or the Virginia*
12784 *Cannabis Control Authority*, upon entering into a written agreement, such tax information as may be necessary
12785 to facilitate the collection of state and local taxes and the administration of the alcoholic beverage *or cannabis*
12786 control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to
12787 identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury
12788 for its confidential use such tax information as may be necessary to facilitate the location of owners and holders
12789 of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon
12790 entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes
12791 and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and
12792 Rappahannock Transportation Commission for his confidential use such tax information as may be necessary
12793 to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the
12794 Department of Agriculture and Consumer Services such tax information as may be necessary to identify those
12795 applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or
12796 who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its
12797 confidential use such tax information as may be necessary to facilitate the administration of the remaining
12798 effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§
12799 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a
12800 written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the
12801 Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide

12802 such information to a private collector who has used or disseminated in an unauthorized or prohibited manner
12803 any such information previously provided to such collector; (xiv) provide current name and address information
12804 as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
12805 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction
12806 or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes
12807 Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax
12808 information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to
12809 the Director of the Department of Human Resource Management, upon entering into a written agreement, such
12810 tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits
12811 who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue,
12812 director of finance, or any other officer of any county, city, or town performing any or all of the duties of a
12813 commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and
12814 Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax;
12815 (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his
12816 confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel
12817 sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of
12818 the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the
12819 Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the
12820 economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written
12821 agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement
12822 System and the Department of Human Resource Management, after entering into a written agreement, such tax
12823 information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to
12824 the Department of Medical Assistance Services, upon entering into a written agreement, the name, address,
12825 social security number, number and type of personal exemptions, tax-filing status, and adjusted gross income
12826 of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to
12827 such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; and
12828 (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that
12829 an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from
12830 Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return
12831 filed with the Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to
12832 enter into written agreements with duly constituted tax officials of other states and of the United States for the
12833 inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered
12834 by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall
12835 be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

12836 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner
12837 of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for
12838 such request, the chief executive officer of any county or city with information furnished to the commissioner
12839 of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county
12840 or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to
12841 the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its
12842 confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a
12843 criminal investigation of an unlawful practice of a profession or occupation administered by the Department of
12844 Professional and Occupational Regulation, only after the Department of Professional and Occupational
12845 Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a
12846 condominium unit owners' association, property owners' association or real estate cooperative association, or
12847 to the owner of property governed by any such association, the names and addresses of parties having a security
12848 interest in real property governed by any such association; however, such information shall be released only
12849 upon written request stating the reason for such request, which reason shall be limited to proposing or opposing
12850 changes to the governing documents of the association, and any information received by any person under this
12851 subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing

12852 official may require any person requesting information pursuant to clause (iii) of this subsection to pay the
12853 reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to
12854 this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax
12855 official.

12856 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or
12857 other collector of taxes for a county, city or town is authorized to provide information relating to any motor
12858 vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to
12859 the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner
12860 or other official in performing assessments.

12861 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor
12862 vehicle local license decal the year, make, and model and any other legal identification information about the
12863 particular motor vehicle for which that local license decal is assigned.

12864 E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory
12865 unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request,
12866 the name, address, and social security number of a taxpayer, necessary for the performance of the
12867 Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of
12868 the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be
12869 deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

12870 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
12871 confidential tax document which he knows or has reason to know is a confidential tax document. A confidential
12872 tax document is any correspondence, document, or tax return that is prohibited from being divulged by
12873 subsection A, B, C, or D and includes any document containing information on the transactions, property,
12874 income, or business of any person, firm, or corporation that is required to be filed with any state official by §
12875 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated
12876 pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is
12877 guilty of a Class 1 misdemeanor.

12878 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

12879 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic Beverage
12880 Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine Resources
12881 Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry,
12882 any sheriff, any regional jail board or authority, and any local police department may allow any full-time sworn
12883 law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn
12884 fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of
12885 higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§
12886 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections
12887 may allow any employee with internal investigations authority designated by the Department of Corrections
12888 pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age
12889 or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for
12890 a service-incurred disability with no expectation of returning to the employment where he incurred the disability
12891 to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1.
12892 If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon.
12893 This privilege shall also extend to any former Superintendent of the Department of State Police who leaves
12894 service after a minimum of five years. This privilege shall also extend to any person listed in this subsection
12895 who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good
12896 standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement
12897 System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may,
12898 with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair
12899 market price determined as in subsection B, so long as the weapon is a type and configuration that can be
12900 purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the
12901 instant background check.

12902 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires
 12903 with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency
 12904 at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time
 12905 sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for
 12906 disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the
 12907 agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement.
 12908 Determinations of fair market value may be made by reference to a recognized pricing guide.

12909 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-
 12910 enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of
 12911 service to purchase the service handgun issued to the officer by the agency at a price of \$1.

12912 D. The governing board of any institution of higher-learning education named in § 23.1-1100 may allow
 12913 any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who
 12914 retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the
 12915 weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be
 12916 made by reference to a recognized pricing guide.

12917 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state
 12918 agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10
 12919 years of state service, even if a portion of his service was with another state agency, may purchase the service
 12920 handgun issued to him by the agency from which he retires at a price of \$1.

12921 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of
 12922 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

12923 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than
 12924 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to
 12925 or less than the weapon's fair market value on the date of purchase by the officer.

12926 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently
 12927 employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer
 12928 of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new
 12929 service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer
 12930 in the course of duty.

12931 **§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.**

12932 A. As used in this section:

12933 "Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to §
 12934 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer
 12935 firefighter and volunteer emergency medical services personnel.

12936 "In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or
 12937 authorized to perform by rule, regulation, written condition of employment service, or law.

12938 "Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii)
 12939 member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of
 12940 Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of
 12941 Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn
 12942 member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix)
 12943 special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
 12944 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under
 12945 the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington
 12946 Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer
 12947 of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer
 12948 of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police
 12949 force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under
 12950 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
 12951 education.

12952 "Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to
 12953 Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

12954 "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress
 12955 disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and
 12956 Statistical Manual of Mental Disorders.

12957 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

- 12958 1. Resulting in serious bodily injury or death to any person or persons;
- 12959 2. Involving a minor who has been injured, killed, abused, or exploited;
- 12960 3. Involving an immediate threat to life of the claimant or another individual;
- 12961 4. Involving mass casualties; or
- 12962 5. Responding to crime scenes for investigation.

12963 B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under
 12964 this title if:

12965 1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-
 12966 enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's
 12967 undergoing a qualifying event;

12968 2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in
 12969 the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and
 12970 Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

12971 3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in
 12972 causing his post-traumatic stress disorder;

12973 4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-
 12974 traumatic stress disorder; and

12975 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job
 12976 transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer
 12977 or firefighter.

12978 Any such mental health professional shall comply with any workers' compensation guidelines for approved
 12979 medical providers, including guidelines on release of past or contemporaneous medical records.

12980 C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement
 12981 officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment
 12982 prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under
 12983 § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of
 12984 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-
 12985 500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the
 12986 date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly
 12987 benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when
 12988 combined with other benefits, including contributory and noncontributory retirement benefits, Social Security
 12989 benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical
 12990 care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

12991 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make
 12992 peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer
 12993 or firefighter seeking mental health care services to a mental health professional.

12994 E. Each fire basic training program conducted or administered by the Department of Fire Programs or a
 12995 municipal fire department in the Commonwealth shall provide, in consultation with the Department of
 12996 Behavioral Health and Developmental Services, resilience and self-care technique training for any individual
 12997 who begins basic training as a firefighter on or after July 1, 2021.

12998 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart**
 12999 **disease, cancer.**

13000 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of
 13001 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such

13002 firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial
13003 disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this
13004 title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

13005 B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in
13006 total or partial disability of any of the following persons who have completed five years of service in their
13007 position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System,
13008 (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of
13009 Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City
13010 of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn
13011 members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x)
13012 special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
13013 1 (§ 4.1-100 et seq.) of Title 4.1 or special agents of the Virginia Cannabis Control Authority appointed under
13014 the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington
13015 Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers
13016 of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers
13017 of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the
13018 police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers
13019 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution
13020 of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered
13021 by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

13022 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing
13023 the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or
13024 salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle
13025 enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time
13026 sworn member of the enforcement division of the Department of Motor Vehicles having completed five years
13027 of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this
13028 title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon,
13029 brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a
13030 condition before July 1, 2020.

13031 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke
13032 them have, if requested by the private employer, appointing authority or governing body employing them,
13033 undergone preemployment physical examinations that (i) were conducted prior to the making of any claims
13034 under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as
13035 prescribed by the private employer, appointing authority or governing body employing such persons, (iii)
13036 included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities
13037 or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension,
13038 cancer or heart disease at the time of such examinations.

13039 E. Persons making claims under this title who rely on such presumptions shall, upon the request of private
13040 employers, appointing authorities or governing bodies employing such persons, submit to physical
13041 examinations (i) conducted by physicians selected by such employers, authorities, bodies or their
13042 representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians.
13043 However, a qualified physician, selected and compensated by the claimant, may, at the election of such
13044 claimant, be present at such examination.

13045 F. Whenever a claim for death benefits is made under this title and the presumptions of this section are
13046 invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer,
13047 appointing authority or governing body that had employed the deceased, submit the body of the deceased to a
13048 postmortem examination as may be directed by the Commission. A qualified physician, selected and
13049 compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such
13050 postmortem examination.

13051 G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and
 13052 reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

13053 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-
 13054 1135 and any persons who are employed by or contract with private employers primarily to perform firefighting
 13055 services.

13056 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

13057 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition
 13058 or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or
 13059 volunteer emergency medical services personnel, (ii) member of the State Police Officers' Retirement System,
 13060 (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of
 13061 Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of
 13062 Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn
 13063 member of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officer, (x)
 13064 special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter
 13065 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under
 13066 the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington
 13067 Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer
 13068 of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer
 13069 of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of
 13070 the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of
 13071 the police force established and maintained by the Virginia Port Authority, (xv) campus police officer appointed
 13072 under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
 13073 education, (xvi) correctional officer as defined in § 53.1-1, or (xvii) full-time sworn member of the enforcement
 13074 division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body
 13075 fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered
 13076 by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.
 13077 For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed
 13078 "documented" if the person covered under this section gave notice, written or otherwise, of the occupational
 13079 exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed
 13080 "documented" without regard to whether the person gave notice, written or otherwise, of the occupational
 13081 exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the
 13082 enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual
 13083 was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

13084 B. As used in this section:

13085 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which
 13086 universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by
 13087 the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal
 13088 meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids,
 13089 including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-
 13090 borne organisms can be transmitted between persons.

13091 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other strain
 13092 of hepatitis generally recognized by the medical community.

13093 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type
 13094 II, causing immunodeficiency syndrome.

13095 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means
 13096 an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

13097 C. Persons covered under this section who test positive for exposure to the enumerated occupational
 13098 diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a
 13099 claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to
 13100 measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

13101 D. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis
 13102 exists for the prevention of a communicable disease for which a presumption is established under this section,
 13103 if medically indicated by the given circumstances pursuant to immunization policies established by the
 13104 Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to
 13105 the provisions of this section may be required by such person's employer to undergo the immunization or
 13106 prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would
 13107 pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person
 13108 subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person
 13109 from any presumption established by this section.

13110 E. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if
 13111 requested by the appointing authority or governing body employing them, undergone preemployment physical
 13112 examinations that (i) were conducted prior to the making of any claims under this title that rely on such
 13113 presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the appointing
 13114 authority or governing body employing such persons, (iii) included such appropriate laboratory and other
 13115 diagnostic studies as the appointing authorities or governing bodies may have prescribed, and (iv) found such
 13116 persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The
 13117 presumptions described in subsection A shall not be effective until six months following such examinations,
 13118 unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the
 13119 six-month period.

13120 F. Persons making claims under this title who rely on such presumption shall, upon the request of appointing
 13121 authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by
 13122 physicians selected by such appointing authorities or governing bodies or their representatives and (ii)
 13123 consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified
 13124 physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such
 13125 examination.

13126 2. That §§ 3.2-4113, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2,
 13127 18.2-251.1:3, 19.2-188.1, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective,
 13128 53.1-231.2, and 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

13129 **§ 3.2-4113. Production of industrial hemp lawful.**

13130 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
 13131 to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his
 13132 agent, or processor or his agent shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-
 13133 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
 13134 processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding
 13135 brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the
 13136 Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or
 13137 exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception,
 13138 excuse, proviso, or exemption shall be on the defendant.

13139 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

13140 C. No person shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-247, 18.2-
 13141 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
 13142 the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or
 13143 process site.

13144 **§ 16.1-260. Intake; petition; investigation.**

13145 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a
 13146 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as
 13147 provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social
 13148 Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of
 13149 petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the
 13150 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated

13151 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions
13152 relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court
13153 of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may
13154 complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster
13155 care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish
13156 or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
13157 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the
13158 petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging
13159 abuse or neglect of a child shall be referred initially to the local department of social services in accordance
13160 with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings
13161 in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is
13162 filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual
13163 who is receiving support services or public assistance shall be denied the right to file a petition or motion to
13164 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support
13165 services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion,
13166 together with notice of the court date, to the Division of Child Support Enforcement.

13167 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake
13168 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio
13169 communication is used, an intake officer may exercise all powers conferred by law. All communications and
13170 proceedings shall be conducted in the same manner as if the appearance were in person, and any documents
13171 filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person
13172 to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an
13173 original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video
13174 and audio communication system used for an appearance shall meet the standards as set forth in subsection B
13175 of § 19.2-3.1.

13176 When the court service unit of any court receives a complaint alleging facts which may be sufficient to
13177 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed
13178 informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition
13179 to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the
13180 issuance of the petition.

13181 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of
13182 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or
13183 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would
13184 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony
13185 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a
13186 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded
13187 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if
13188 committed by an adult.

13189 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the
13190 attendance officer has provided documentation to the intake officer that the relevant school division has
13191 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake
13192 officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the
13193 juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more
13194 than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2)
13195 the immediately previous informal action or adjudication occurred at least three calendar years prior to the
13196 current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis
13197 must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that
13198 the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such
13199 programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure
13200 the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may

13201 refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
13202 interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably
13203 available from the appropriate department of social services, community services board, local school division,
13204 court service unit, and other appropriate and available public and private agencies and may be the family
13205 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile
13206 has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the
13207 petition.

13208 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in
13209 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the
13210 juvenile, which may include restitution and the performance of community service, based upon community
13211 resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken
13212 by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's
13213 parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint
13214 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke
13215 the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

13216 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
13217 support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned,
13218 or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal
13219 custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services
13220 which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to §
13221 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
13222 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
13223 respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases
13224 in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if
13225 the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be
13226 in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency
13227 other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
13228 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of
13229 the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-
13230 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-
13231 152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and
13232 time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

13233 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
13234 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of
13235 supervision have utilized or attempted to utilize treatment and services available in the community and have
13236 exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines
13237 that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate
13238 nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of
13239 supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a
13240 petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort
13241 to utilize available community treatment or services may he permit the petition to be filed.

13242 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
13243 would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at
13244 that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that
13245 probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court.
13246 The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a
13247 petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention
13248 or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
13249 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child

13250 in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision
13251 is final.

13252 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake
13253 officer shall accept and file a petition founded upon the warrant.

13254 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which
13255 alleges facts of an offense which would be a felony if committed by an adult.

13256 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report
13257 with the division superintendent of the school division in which any student who is the subject of a petition
13258 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime
13259 if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within
13260 the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and
13261 the nature of the offense, if the violation involves:

13262 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.),
13263 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

13264 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

13265 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
13266 18.2;

13267 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

13268 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
13269 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

13270 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of
13271 Title 18.2;

13272 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

13273 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

13274 9. Robbery pursuant to § 18.2-58;

13275 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

13276 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

13277 12. An act of violence by a mob pursuant to § 18.2-42.1;

13278 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

13279 14. A threat pursuant to § 18.2-60.

13280 The failure to provide information regarding the school in which the student who is the subject of the
13281 petition may be enrolled shall not be grounds for refusing to file a petition.

13282 The information provided to a division superintendent pursuant to this section may be disclosed only as
13283 provided in § 16.1-305.2.

13284 H. The filing of a petition shall not be necessary:

13285 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other
13286 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any
13287 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the
13288 court may proceed on a summons issued by the officer investigating the violation in the same manner as
13289 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of
13290 the accident or at any other location where a juvenile who is involved in such an accident may be located,
13291 proceed on a summons in lieu of filing a petition.

13292 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of §
13293 16.1-241.

13294 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
13295 other alcohol-related offense, ~~or a violation of § 18.2-250.1,~~ provided that the juvenile is released to the custody
13296 of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a
13297 parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the
13298 parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the
13299 manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of §

18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 ~~or 18.2-250.1~~ is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 ~~or 18.2-250.1~~ is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, *or* (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, ~~or (c) a violation of § 18.2-250.1~~, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a misdemeanor violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, 18.2-248.1, or 18.2-250 ~~or a violation of § 18.2-250.1~~; (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-

13350 309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii)
13351 the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a
13352 violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by
13353 law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by
13354 this section, if the offense involves a violation designated under clause (i) and the child was transporting a
13355 person 17 years of age or younger, the court shall impose the additional fine and order community service as
13356 provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the
13357 denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever
13358 is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever
13359 is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause
13360 (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is
13361 committed by a child under the age of 16 years and three months, in which case the child's ability to apply for
13362 a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and
13363 three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
13364 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
13365 disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F
13366 of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the
13367 license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-
13368 251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be
13369 for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a
13370 striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a
13371 spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving
13372 privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years
13373 and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period
13374 of two years following the date he reaches the age of 16 and three months.

13375 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and
13376 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges
13377 for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and
13378 three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30
13379 days following the date he reaches the age of 16 and three months.

13380 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a
13381 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to
13382 apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months,
13383 as may be appropriate.

13384 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-
13385 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
13386 reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile
13387 reaches the age of 18, whichever is longer, for a second or subsequent such offense.

13388 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
13389 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the
13390 physical custody of the court during any period of license denial.

13391 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
13392 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
13393 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
13394 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2,
13395 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts.
13396 No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
13397 results in an adjudication of guilt pursuant to subsection F.

13398 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's
13399 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the
13400 order of denial under subsection E.

13401 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection
13402 A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action
13403 program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the
13404 finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection
13405 A, such child may be referred to appropriate rehabilitative or educational services upon such terms and
13406 conditions as the court may set forth.

13407 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted
13408 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
13409 of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of §
13410 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and
13411 from home and school when school-provided transportation is available and no restricted license shall be issued
13412 if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it
13413 involves a second or subsequent violation of any offense designated in subsection A, a second finding by the
13414 court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a
13415 second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The
13416 issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to
13417 the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the
13418 child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order
13419 in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed
13420 pursuant to this section is guilty of a violation of § 46.2-301.

13421 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any
13422 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For
13423 a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year
13424 after its issuance.

13425 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
13426 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
13427 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the
13428 finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the
13429 child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without
13430 an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section
13431 in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication
13432 of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,
13433 the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions
13434 of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or
13435 (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under
13436 § 16.1-278.8.

13437 **§ 18.2-46.1. Definitions.**

13438 As used in this article unless the context requires otherwise or it is otherwise provided:

13439 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

13440 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,
13441 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one
13442 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose
13443 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to
13444 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,
13445 provided such acts were not part of a common act or transaction.

13446 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3,
13447 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,

13448 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,
 13449 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,
 13450 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-
 13451 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
 13452 felony violation of § 4.1-1101, 18.2-248, or ~~of~~ 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-
 13453 1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi)
 13454 any substantially similar offense under the laws of another state or territory of the United States, the District of
 13455 Columbia, or the United States.

13456 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

13457 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
 13458 consumption or use of a controlled substance, alcohol, or any combination of such substances.

13459 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
 13460 consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana*
 13461 *pursuant to § 4.1-1105.1*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of marijuana~~
 13462 ~~pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia
 13463 pursuant to § 54.1-3466 if:

13464 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is
 13465 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or
 13466 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical
 13467 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in §
 13468 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as
 13469 defined in § 9.1-101, or an emergency 911 system;

13470 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the
 13471 person requiring emergency medical attention has been transported until a law-enforcement officer responds to
 13472 the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the
 13473 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

13474 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
 13475 overdose; and

13476 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of
 13477 the individual seeking or obtaining emergency medical attention.

13478 C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical
 13479 attention for himself or another individual, or to a person experiencing an overdose when another individual
 13480 seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the
 13481 conduct of a lawful search or a lawful arrest.

13482 D. This section does not establish protection from arrest or prosecution for any individual or offense other
 13483 than those listed in subsection B.

13484 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
 13485 determined that the person arrested was immune from prosecution under this section.

13486 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

13487 No school nurse employed by a local school board, person employed by a local health department who is
 13488 assigned to the public school pursuant to an agreement between the local health department and the school
 13489 board, or other person employed by or contracted with a local school board to deliver health-related services
 13490 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-~~
 13491 ~~250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering
 13492 cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a
 13493 valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

13494 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing
 13495 facilities; hospice and hospice facilities; assisted living facilities.**

13496 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized
 13497 to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11*

13498 (*§ 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
 13499 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or
 13500 resident who has been issued a valid written certification for the use of cannabis oil in accordance with
 13501 subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

13502 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.**

13503 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial
 13504 hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed
 13505 industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11*
 13506 (*§ 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
 13507 or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing
 13508 purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture
 13509 and Consumer Services.

13510 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

13511 A. In any preliminary hearing on a violation of *Chapter 11* (*§ 4.1-1100 et seq.*) of Title 4.1, Article 1 (§
 13512 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
 13513 officer shall be permitted to testify as to the results of field tests that have been approved by the Department of
 13514 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-
 13515 4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a
 13516 controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

13517 B. In any trial for a violation of ~~§ 18.2-250.1~~ *4.1-1105.1*, any law-enforcement officer shall be permitted to
 13518 testify as to the results of any marijuana field test approved as accurate and reliable by the Department of
 13519 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-
 13520 4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided
 13521 the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be
 13522 on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

13523 In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ *4.1-1105.1*, or the attorney of record
 13524 for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial
 13525 before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court
 13526 shall order that the analysis be performed by the Department of Forensic Science in accordance with the
 13527 provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence
 13528 submitted for chemical analysis.

13529 **§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information;
 13530 prohibited practices by employers, educational institutions, and state and local governments; penalty.**

13531 A. Records relating to the arrest, criminal charge, or conviction of a person for a *misdemeanor violation of*
 13532 *§ 18.2-248.1* or a violation of § 18.2-250.1, including any violation charged under *§ 18.2-248.1* or 18.2-250.1
 13533 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange
 13534 shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated
 13535 (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii)
 13536 to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established
 13537 pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report
 13538 pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets
 13539 pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies
 13540 established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§
 13541 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving
 13542 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
 13543 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
 13544 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare
 13545 the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-
 13546 time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or
 13547 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the

13548 prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
 13549 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the
 13550 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee
 13551 of the State Police or a police department or sheriff's office that is a part of or administered by the
 13552 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or
 13553 part-time employment with the State Police or a police department or sheriff's office that is a part of or
 13554 administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner
 13555 or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of
 13556 an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee
 13557 of the Department of Forensic Science for the purpose of screening any person for full-time or part-time
 13558 employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality,
 13559 or his designee who shall be an individual employed as a public safety official of the locality, that has adopted
 13560 an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who
 13561 applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-
 13562 111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as
 13563 defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying
 13564 with the regulations of the Federal Motor Carrier Safety Administration.

13565 B. An employer or educational institution shall not, in any application, interview, or otherwise, require an
 13566 applicant for employment or admission to disclose information concerning any arrest, criminal charge, or
 13567 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for
 13568 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
 13569 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
 13570 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for
 13571 public inspection pursuant to subsection A.

13572 C. Agencies, officials, and employees of the state and local governments shall not, in any application,
 13573 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to
 13574 disclose information concerning any arrest, criminal charge, or conviction against him when the record relating
 13575 to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An
 13576 applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a
 13577 reference to or information concerning any arrest, criminal charge, or conviction when the record relating to
 13578 such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an
 13579 application may not be denied solely because of the applicant's refusal to disclose information concerning any
 13580 such arrest, criminal charge, or conviction.

13581 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

13582 **§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and**
 13583 **organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

13584 A. For purposes of this section:

13585 "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,
 13586 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-
 13587 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
 13588 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,
 13589 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-
 13590 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,
 13591 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
 13592 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,
 13593 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-
 13594 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,
 13595 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,
 13596 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,
 13597 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,

13598 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-
13599 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 §
13600 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-
13601 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,
13602 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
13603 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
13604 substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101,
13605 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255,
13606 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 the laws
13607 of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the
13608 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to
13609 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding
13610 that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title
13611 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender
13612 and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of
13613 another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry
13614 is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
13615 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

13616 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
13617 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
13618 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the
13619 barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the
13620 charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier
13621 crime.

13622 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to
13623 children or the elderly or disabled.

13624 "Department" means the Department of State Police.

13625 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
13626 to volunteer for a qualified entity.

13627 "Identification document" means a document made or issued by or under the authority of the United States
13628 government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign
13629 government, an international governmental or an international quasi-governmental organization that, when
13630 completed with information concerning a particular individual, is of a type intended or commonly accepted for
13631 the purpose of identification of individuals.

13632 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
13633 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
13634 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
13635 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

13636 "Qualified entity" means a business or organization that provides care to children or the elderly or disabled,
13637 whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to
13638 subdivision A 7 of § 63.2-1715.

13639 B. A qualified entity may request the Department of State Police to conduct a national criminal background
13640 check on any provider who is employed by such entity. No qualified entity may request a national criminal
13641 background check on a provider until such provider has:

13642 1. Been fingerprinted; and

13643 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
13644 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever
13645 been convicted of or is the subject of pending charges for a criminal offense within or outside the
13646 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars
13647 of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to

13648 the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and
 13649 completeness of any information contained in any such report, and to obtain a prompt determination as to the
 13650 validity of such challenge before a final determination is made by the Department; and (v) a notice to the
 13651 provider that prior to the completion of the background check the qualified entity may choose to deny the
 13652 provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

13653 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
 13654 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
 13655 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
 13656 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall
 13657 access the national criminal history background check system, which is maintained by the Federal Bureau of
 13658 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
 13659 Criminal Records Exchange maintained by the Department. If the Department receives a background report
 13660 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping
 13661 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
 13662 to a qualified entity's inquiry within 15 business days.

13663 D. Any background check conducted pursuant to this section for a provider employed by a private entity
 13664 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
 13665 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
 13666 in a position that involves unsupervised access to children or the elderly or disabled.

13667 E. Any background check conducted pursuant to this section for a provider employed by a governmental
 13668 entity shall be provided to that entity.

13669 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
 13670 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
 13671 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
 13672 fingerprints.

13673 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
 13674 negligence per se in any civil action.

13675 H. ~~[Expired.]~~

13676 **§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and**
 13677 **organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

13678 A. For purposes of this section:

13679 "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,
 13680 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-
 13681 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
 13682 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,
 13683 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-
 13684 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,
 13685 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
 13686 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,
 13687 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-
 13688 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,
 13689 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,
 13690 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,
 13691 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,
 13692 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-
 13693 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 §
 13694 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-
 13695 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,
 13696 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
 13697 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

13698 substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101,
13699 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255,
13700 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 the laws
13701 of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the
13702 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to
13703 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding
13704 that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title
13705 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender
13706 and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of
13707 another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry
13708 is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
13709 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

13710 "Barrier crime information" means the following facts concerning a person who has been arrested for, or
13711 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of
13712 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the
13713 barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the
13714 charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier
13715 crime.

13716 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to
13717 children or the elderly or disabled.

13718 "Department" means the Department of State Police.

13719 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks
13720 to volunteer for a qualified entity.

13721 "Identification document" means a document made or issued by or under the authority of the United States
13722 government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign
13723 government, an international governmental or an international quasi-governmental organization that, when
13724 completed with information concerning a particular individual, is of a type intended or commonly accepted for
13725 the purpose of identification of individuals.

13726 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have
13727 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;
13728 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to
13729 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

13730 "Qualified entity" means a business or organization that provides care to children or the elderly or disabled,
13731 whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to
13732 subdivision A 7 of § 22.1-289.030.

13733 B. A qualified entity may request the Department of State Police to conduct a national criminal background
13734 check on any provider who is employed by such entity. No qualified entity may request a national criminal
13735 background check on a provider until such provider has:

13736 1. Been fingerprinted; and

13737 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date
13738 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever
13739 been convicted of or is the subject of pending charges for a criminal offense within or outside the
13740 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars
13741 of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to
13742 the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and
13743 completeness of any information contained in any such report, and to obtain a prompt determination as to the
13744 validity of such challenge before a final determination is made by the Department; and (v) a notice to the
13745 provider that prior to the completion of the background check the qualified entity may choose to deny the
13746 provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

13747 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
 13748 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
 13749 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
 13750 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall
 13751 access the national criminal history background check system, which is maintained by the Federal Bureau of
 13752 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
 13753 Criminal Records Exchange maintained by the Department. If the Department receives a background report
 13754 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping
 13755 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
 13756 to a qualified entity's inquiry within 15 business days.

13757 D. Any background check conducted pursuant to this section for a provider employed by a private entity
 13758 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
 13759 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
 13760 in a position that involves unsupervised access to children or the elderly or disabled.

13761 E. Any background check conducted pursuant to this section for a provider employed by a governmental
 13762 entity shall be provided to that entity.

13763 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
 13764 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
 13765 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
 13766 fingerprints.

13767 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
 13768 negligence per se in any civil action.

13769 H. ~~[Expired.]~~

13770 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

13771 This section shall apply to any person who is not a qualified voter because of a felony conviction, who
 13772 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the
 13773 conditions and requirements set out in this section.

13774 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection
 13775 C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to §§ § 4.1-1101, 18.2-248,
 13776 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 pursuant to §
 13777 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the
 13778 circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to
 13779 register to vote through the process set out in this section. On such petition, the court may approve the petition
 13780 for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner
 13781 has completed, five or more years previously, service of any sentence and any modification of sentence
 13782 including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility
 13783 through community or comparable service; and that the petitioner has been free from criminal convictions,
 13784 excluding traffic infractions, for the same period.

13785 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,
 13786 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to
 13787 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to
 13788 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall
 13789 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible
 13790 to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days
 13791 of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of
 13792 that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition
 13793 for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The
 13794 Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or
 13795 denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-3442.8. 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.

3. That §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 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, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth enactments of this act, the provisions of this act shall become effective on January 1, 2024.

5. That the provisions of § 4.1-629 of the Code of Virginia, as created by this act, shall become effective on July 1, 2022.

6. That, subject to the provisions of the eleventh and thirteenth enactments, the provisions of (i) §§ 4.1-630 and 4.1-631 of the Code of Virginia, as created by this act, and (ii) Chapter 7 (§ 4.1-700 et seq.), Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10 (§ 4.1-1000 et seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, shall become effective on July 1, 2023.

7. That, except for (i) the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1120, 4.1-1121, and 4.1-1302 of the Code of Virginia, as created by this act, Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, §§ 15.2-1627, 16.1-69.48:1, 16.1-228, 16.1-278.8:01, 18.2-251.02, 18.2-308.09, 18.2-308.1:5, 19.2-389.3, 19.2-392.1, 19.2-392.4, and 24.2-233 of the Code of Virginia, as amended by this act, §§ 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7 of the Code of Virginia, as created by this act, and § 54.1-3442.6 of the Code of Virginia, as amended by this act, and (ii) the repeal of § 18.2-250.1 of the Code of Virginia, the provisions of the first, third, fourth, fifth, sixth, and eleventh enactments of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly. The provisions of §§ 4.1-1101.1 and 4.1-1105.1 of the Code of Virginia, as created by this act, shall expire on January 1, 2024, if the provisions of the first, third, and fourth enactments of this act are reenacted by the 2022 Session of the General Assembly.

8. That (i) the provisions of the second enactment of this act, (ii) the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1120, 4.1-1121, and 4.1-1302 of the Code of Virginia, as created by this act, Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, §§ 15.2-1627, 16.1-69.48:1, 16.1-228, 16.1-278.8:01, 18.2-251.02, 18.2-308.09, and 18.2-308.1:5 of the Code of Virginia, as amended by this act, § 46.2-341.20:7 of the Code of Virginia, as created by this act, and § 54.1-3442.6 of the Code of Virginia, as amended by this act, and (iii) the repeal of § 18.2-250.1 of the Code of Virginia shall become effective on July 1, 2021.

9. That the provisions of the first enactment amending §§ 19.2-389.3, 19.2-392.1, and 19.2-392.4 of the Code of Virginia and creating §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia shall become effective on the earlier of (i) the first day of the fourth month following notification to the Chairman of the Virginia Code Commission and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who

13846 maintains a case management system that interfaces with the Department of State Police under
13847 subsection B of § 17.1-502 of the Code of Virginia have automated systems to exchange information as
13848 required by § 19.2-392.2:1 of the Code of Virginia, as created by this act, or (ii) July 1, 2025. The
13849 Department of State Police shall first transmit the list required under subsection B of § 19.2-392.2:1 of
13850 the Code of Virginia, as created by this act, no later than the earlier of (a) the first day of the third month
13851 following the effective date of §§ 19.2-389.3, 19.2-392.1, and 19.2-392.4 of the Code of Virginia, as
13852 amended by this act, and §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia, as created by this act,
13853 or (b) October 1, 2025. The Executive Secretary of the Supreme Court of Virginia, the Department of
13854 State Police, and any circuit court clerk who maintains a case management system that interfaces with
13855 the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia, shall automate
13856 systems to exchange information as required by §§ 19.2-392.2:1 of the Code of Virginia, as created by
13857 this act, no later than July 1, 2025. If the provisions of this act repealing § 18.2-248.1 of the Code of
13858 Virginia are not reenacted by the 2022 Session of the General Assembly, the references to § 18.2-248.1 in
13859 §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia, as created by this act, shall not become effective.

13860 10. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall
13861 promulgate regulations to implement the provisions of this act by July 1, 2023; however, the Board shall
13862 not adopt such regulations prior to July 1, 2022, and shall present such regulations to the Cannabis
13863 Oversight Commission for review prior to adoption. With the exception of § 2.2-4031 of the Code of
13864 Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of
13865 Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the initial adoption
13866 of any regulations pursuant to this act. Prior to adopting any regulations pursuant to this act, the Board
13867 shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the
13868 action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a
13869 summary of the proposed regulations; (ii) the text of the proposed regulations; and (iii) the name,
13870 address, and telephone number of the agency contact person responsible for receiving public comments.
13871 Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for
13872 submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 of
13873 the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant
13874 to this act. The Board shall consider and keep on file all public comments received for any regulations
13875 adopted pursuant to this act. The provisions of this enactment shall become effective in due course.

13876 11. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications
13877 for licenses pursuant to the provision of § 4.1-1000 of the Code of Virginia, as created by this act, on July
13878 1, 2023, and shall, from July 1, 2023, until January 1, 2024, give preference to qualified social equity
13879 applicants, as determined by regulations promulgated by the Board of Directors of the Authority in
13880 accordance with this act. The Authority may issue any license authorized by this act to any applicant that
13881 meets the requirements for licensure established by this act. Notwithstanding the fourth enactment of
13882 this act, any applicant issued a license by the Authority may operate in accordance with the provisions
13883 of this act prior to January 1, 2024; however, (i) no retail marijuana store licensee may sell retail
13884 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds and (ii) no
13885 marijuana cultivation facility licensee may sell immature marijuana plants or marijuana seeds to a
13886 consumer prior to January 1, 2024. Notwithstanding any other provision of law, on or after July 1, 2023,
13887 and prior to January 1, 2024, no marijuana cultivation facility licensee, marijuana manufacturing facility
13888 licensee, marijuana wholesaler licensee, retail marijuana store licensee, or marijuana testing facility
13889 licensee or agent or employee thereof shall be subject to arrest or prosecution for a violation of Chapter
13890 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, § 18.2-248, 18.2-248.01,
13891 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia,
13892 as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving
13893 marijuana if such violation is related to acts committed within the scope of the licensure or employment
13894 and in accordance with the provisions of Subtitle II (§ 4.1-600 et seq.) of Title 4.1 of the Code of Virginia,
13895 as created by this act. From July 1, 2023, to July 1, 2028, the Authority shall (a) reserve a license slot for

13896 a qualified social equity applicant for every license that was initially granted to a social equity applicant
13897 and was subsequently surrendered and (b) reserve license slots for all pharmaceutical processors that
13898 have been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the
13899 Code of Virginia) of the Drug Control Act and issue a cultivation, manufacturing, wholesale, and retail
13900 license to any such pharmaceutical processor that meets the applicable licensing requirements. The
13901 Authority shall ensure that geographic dispersion is achieved regarding the issuance of retail marijuana
13902 store licenses and shall reassess the issuance of retail marijuana store licenses at the following intervals
13903 to ensure that geographic dispersion is maintained: after issuance of 100 licenses, 200 licenses, and 300
13904 licenses. The provisions of this enactment shall become effective July 1, 2022.

13905 12. The Virginia Cannabis Control Authority (the Authority) shall develop and implement its
13906 diversity, equity, and inclusion plan pursuant to § 4.1-604 of the Code of Virginia, as created by this act,
13907 and publish resources to assist social equity applicants by January 1, 2023. The Authority shall, in
13908 consultation with the Secretaries of Public Safety and Homeland Security, Transportation, and Health
13909 and Human Resources, develop and implement a health, safety, and safe driving campaign by January
13910 1, 2023. The provisions of this enactment shall become effective in due course.

13911 13. That the sale of retail marijuana, retail marijuana products, immature marijuana plants, and
13912 marijuana seeds by retail marijuana store licensees and the sale of immature marijuana plants and
13913 marijuana seeds by marijuana cultivation facility licensees shall be permitted on and after January 1,
13914 2024. The provisions of this enactment shall become effective in due course.

13915 14. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
13916 members on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of Virginia,
13917 as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire
13918 June 30, 2025; four persons shall be appointed for a term to expire June 30, 2026; and four persons shall
13919 be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the
13920 Cannabis Equity Reinvestment Board shall serve for terms of four years. The provisions of this
13921 enactment shall become effective in due course.

13922 15. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
13923 members on the Cannabis Public Health Advisory Council pursuant to § 4.1-603 of the Code of Virginia,
13924 as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire
13925 June 30, 2025; five persons shall be appointed for a term to expire June 30, 2026; and four persons shall
13926 be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the
13927 Cannabis Public Health Advisory Council shall serve for terms of four years. The provisions of this
13928 enactment shall become effective in due course.

13929 16. That the Board of Agriculture and Consumer Services shall promulgate the regulations required
13930 by subsections C and D of § 3.2-4114 of the Code of Virginia, as amended by this act, to become effective
13931 by July 1, 2023. The provisions of this enactment shall become effective in due course.

13932 17. That the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public
13933 Safety and Homeland Security shall convene a work group with all appropriate state agencies and
13934 authorities to develop a plan for identifying and collecting data that can determine the use and misuse of
13935 marijuana in order to determine appropriate policies and programs to promote public health and safety.
13936 The plan shall include marijuana-related data regarding (i) poison control center calls; (ii) hospital and
13937 emergency room visits; (iii) impaired driving; (iv) use rates, including heavy or frequent use, mode of
13938 use, and demographic information for vulnerable populations, including youth and pregnant women;
13939 and (v) treatment rates for cannabis use disorder and any other diseases related to marijuana use. The
13940 plan shall detail the categories for which each data source will be collected, including the region where
13941 the individual lives or the incident occurred and the age and the race or ethnicity of the individual. The
13942 plan shall also include the means by which initial data will be collected as soon as practicable as a
13943 benchmark prior to or as soon as possible after the effective date of an act legalizing marijuana for adult
13944 use, the plan for regular collection of such data thereafter, and the cost of the initial and ongoing
13945 collection of such data. The plan shall also recommend a timetable and determine the cost for analyzing

13946 and reporting the data. The work group, in consultation with the Director of Diversity, Equity, and
13947 Inclusion, shall also recommend metrics to identify disproportionate impacts of marijuana legalization,
13948 if any, to include discrimination in the Commonwealth's cannabis industry. The work group shall report
13949 its findings and recommendations to the Governor and the General Assembly by November 1, 2021. The
13950 provisions of this enactment shall become effective in due course.

13951 18. That the Virginia Department of Education (the Department), with assistance from appropriate
13952 agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that teachers
13953 have access to sufficient information, resources, and lesson ideas to assist them in teaching about the
13954 harms of marijuana use among the youth and about substance abuse, as provided in the 2020 Health
13955 Standards of Learning. The Department shall (i) review resources currently provided to teachers to
13956 determine if additional or updated material or lesson ideas are needed and (ii) provide or develop any
13957 additional materials and resources deemed necessary and make the same available to teachers by
13958 January 1, 2024. The provisions of this enactment shall become effective in due course.

13959 19. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall
13960 develop a plan for introducing teachers, particularly those teaching health, to the information and
13961 resources available to them to assist them in teaching the 2020 Health Standards of Learning as it relates
13962 to marijuana use. Such plan shall include providing professional development webinars as soon as
13963 practicable, as well as ongoing periodic professional development relating to marijuana, as well as
13964 alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of
13965 implementation and any potential source of funds to cover such cost and shall be submitted to the
13966 Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become
13967 effective in due course.

13968 20. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia
13969 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and
13970 Developmental Services shall work with existing collegiate recovery programs to determine what, if any,
13971 additional evidence-based efforts should be undertaken for college-age individuals to promote education
13972 and prevention strategies relating to marijuana. The plan shall include the estimated cost of
13973 implementation and any potential source of funds to cover such cost and shall be submitted to the
13974 Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become
13975 effective in due course.

13976 21. That, effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-
13977 60) as promulgated or amended thereafter by the Board of Pharmacy (the Board) shall remain in full
13978 force and effect and continue to be administered by the Board of Pharmacy until the Board of Directors
13979 of the Virginia Cannabis Control Authority (the Authority) promulgates regulations pursuant to the
13980 tenth enactment of this act and no later than July 1, 2023. The Board shall provide assistance to the
13981 Board of Directors of the Authority in promulgating regulations by July 1, 2023. The provisions of this
13982 enactment shall become effective in due course.

13983 22. That there shall be established a Cannabis Oversight Commission (the Commission), which shall
13984 consist of 10 members of the General Assembly. Members shall be appointed as follows: six members of
13985 the House of Delegates who are members of the House Committee on Appropriations, the House
13986 Committee for Courts of Justice, or the House Committee on General Laws to be appointed by the
13987 Speaker of the House of Delegates in accordance with the principles of proportional representation
13988 contained in the Rules of the House of Delegates and four members of the Senate who are members of
13989 the Senate Committee on Finance and Appropriations, the Senate Committee on the Judiciary, or the
13990 Senate Committee on Rehabilitation and Social Services to be appointed by the Senate Committee on
13991 Rules. The Commission shall elect a chairman and vice-chairman from among its membership; however,
13992 the chairman and vice-chairman shall not both be members of the House of Delegates, nor shall both the
13993 chairman and vice-chairman be members of the Senate. No recommendation of the Commission shall be
13994 adopted if a majority of the House members or a majority of the Senate members appointed to the
13995 Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail

13996 notwithstanding the majority vote of the Commission. The Commission shall exercise the function of
13997 overseeing the implementation of the provisions of this act and shall convene regularly in the exercise of
13998 that function. The Virginia Cannabis Control Authority (the Authority) shall report to the Commission
13999 at the Commission's request. The Commission shall expire on January 1, 2024. The provisions of this
14000 enactment shall become effective in due course.

14001 23. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this
14002 act, on the question of whether the operation of retail marijuana stores shall be prohibited in a particular
14003 locality shall be held and results certified by December 31, 2022. A referendum on such question shall
14004 not be permitted in a locality after January 1, 2023, unless such referendum follows a referendum held
14005 prior to December 31, 2022, and any subsequent referendum, in which a majority of the qualified voters
14006 voting in such referendum voted "Yes" to prohibit the operation of retail marijuana stores. The
14007 provisions of this enactment shall become effective July 1, 2022.

14008 24. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the
14009 Chairmen of the Senate Committee on the Judiciary, the Senate Committee on Finance and
14010 Appropriations, the House Committee on Appropriations, and the House Committee for Courts of
14011 Justice by November 1, 2021, and by November 1 each year thereafter regarding the number of civil
14012 offenses committed and civil penalties imposed for violations of §§ 4.1-1100, 4.1-1105, and 4.1-1105.1 of
14013 the Code of Virginia, as created by this act. The provisions of this enactment shall become effective in
14014 due course.

14015 25. That the Joint Legislative Audit and Review Commission (JLARC) shall (i) analyze the provisions
14016 of this act, (ii) compare such provisions to JLARC Report 542 (2020), and (iii) report its findings to the
14017 General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due
14018 course.

14019 26. That the provisions of this act may result in a net increase in periods of imprisonment or
14020 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
14021 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;
14022 therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing
14023 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
14024 Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of
14025 commitment to the custody of the Department of Juvenile Justice. The provisions of this enactment shall
14026 become effective in due course.