

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 1-219.1, 2.2-3124, 3.2-4212, 3.2-5139, 4.1-336, 6.2-1003, 6.2-1085, 18.2-270, 18.2-340, 19.2-386.1, 19.2-386.2, 19.2-386.3, 19.2-386.4, 19.2-386.5, 19.2-386.14, 19.2-386.16, 19.2-386.19, 19.2-386.26, 19.2-386.29 through 19.2-386.32, 22.1-142, 28.2-319, 28.2-407, 28.2-821, 28.2-900, 29.1-407, 29.1-521.2, 29.1-523.1, 29.1-524, 29.1-549, 30-126, 46.2-867, 46.2-1087, 46.2-1605, and 58.1-2274 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 19.2-386.2:1 and by adding in Chapter 22.2 of Title 19.2 sections numbered 19.2-386.33 and 19.2-386.34; and to repeal §§ 4.1-340 through 4.1-345 and 4.1-347 and Chapter 22 (§§ 19.2-369 through 19.2-386) of Title 19.2 of the Code of Virginia, relating to consolidation of asset forfeiture laws.*

Approved

[H 348]

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

**1. That §§ 1-219.1, 2.2-3124, 3.2-4212, 3.2-5139, 4.1-336, 6.2-1003, 6.2-1085, 18.2-270, 18.2-340, 19.2-386.1, 19.2-386.2, 19.2-386.3, 19.2-386.4, 19.2-386.5, 19.2-386.14, 19.2-386.16, 19.2-386.19, 19.2-386.26, 19.2-386.29 through 19.2-386.32, 22.1-142, 28.2-319, 28.2-407, 28.2-821, 28.2-900, 29.1-407, 29.1-521.2, 29.1-523.1, 29.1-524, 29.1-549, 30-126, 46.2-867, 46.2-1087, 46.2-1605, and 58.1-2274 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-386.2:1 and by adding in Chapter 22.2 of Title 19.2 sections numbered 19.2-386.33 and 19.2-386.34 as follows:**

§ 1-219.1. Limitations on eminent domain.

A. The right to private property being a fundamental right, the General Assembly shall not pass any law whereby private property shall be taken or damaged for public uses without just compensation. The term "public uses" mentioned in Article I, Section 11 of the Constitution of Virginia is hereby defined as to embrace only the acquisition of property where: (i) the property is taken for the possession, ownership, occupation, and enjoyment of property by the public or a public corporation; (ii) the property is taken for construction, maintenance, or operation of public facilities by public corporations or by private entities provided that there is a written agreement with a public corporation providing for use of the facility by the public; (iii) the property is taken for the creation or functioning of any public service corporation, public service company, or railroad; (iv) the property is taken for the provision of any authorized utility service by a government utility corporation; (v) the property is taken for the elimination of blight provided that the property itself is a blighted property; or (vi) the property taken is in a redevelopment or conservation area and is abandoned or the acquisition is needed to clear title where one of the owners agrees to such acquisition or the acquisition is by agreement of all the owners.

B. For purposes of this section:

"Blighted property" means any property that endangers the public health or safety in its condition at the time of the filing of the petition for condemnation and is (i) a public nuisance or (ii) an individual commercial, industrial, or residential structure or improvement that is beyond repair or unfit for human occupancy or use.

"Government utility corporation" means any county or municipality, or entity or agency thereof, which provides or operates one or more of the following authorized utility services: gas, pipeline, electric light, heat, power, water supply, sewer, telephone, or telegraph.

"Public corporation" means the Commonwealth of Virginia or any political subdivision thereof or any incorporated municipality therein or any public agency of the Commonwealth or of any political subdivision thereof or of any municipality therein.

"Public facilities" means (i) airports, landing fields, and air navigation facilities; (ii) educational facilities; (iii) flood control, bank and shore protection, watershed protection, and dams; (iv) hospital facilities; (v) judicial and court facilities; (vi) correctional facilities, including jails and penitentiaries; (vii) library facilities; (viii) military installations; (ix) parks so designated by the Commonwealth or by the locality in its comprehensive plan; (x) properties of historical significance so designated by the Commonwealth; (xi) law enforcement, fire, emergency medical, and rescue facilities; (xii) sanitary sewer, water or stormwater facilities; (xiii) transportation facilities including highways, roads, streets, and bridges, traffic signals, related easements and rights-of-way, mass transit, ports, and any components of federal, state, or local transportation facilities; (xiv) waste management facilities for hazardous, radioactive, or other waste; (xv) office facilities occupied by a public corporation; and (xvi) such other facilities that are necessary to the construction, maintenance, or operation of a public facility as listed in

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clauses (i) through (xv) and directly related thereto.

C. No more private property may be taken than that which is necessary to achieve the stated public use.

D. Except where property is taken (i) for the creation or functioning of a public service corporation, public service company, or railroad; or (ii) for the provision of any authorized utility service by a government utility corporation, property can only be taken where: (a) the public interest dominates the private gain and (b) the primary purpose is not private financial gain, private benefit, an increase in tax base or tax revenues, or an increase in employment.

E. During condemnation proceedings, the property owner may challenge whether the taking or damaging is for a public use, the stated public use is a pretext for an unauthorized use, or the taking or damaging of property is a violation of subsection D. Nothing in this section shall be construed as abrogating any defenses or rights otherwise available to the property owner independently of this section.

F. Subject to the provisions of subsection D, the limitations contained in this section shall not abrogate any other provision of law that authorizes a condemnor to dispose of property taken for a public use as surplus property, as otherwise provided by law.

G. If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the condemnor shall offer to acquire the entire property for its fair market value as otherwise provided by law, but the condemnor shall not acquire an uneconomic remnant if the owner objects and desires to maintain ownership of the excess property.

H. The provisions of this section shall control to the extent there are any inconsistencies between this section and any other general or special law; otherwise, nothing herein shall be construed as abrogating the power of eminent domain delegated independently of this section.

I. The provisions of this section shall not apply to the forfeiture of property under Chapters 22 (§ 19.2-369 et seq.), 22.1 (§ 19.2-386.1 et seq.), and 22.2 (§ 19.2-386.15 et seq.) of Title 19.2.

J. The provisions of this section shall not apply to real property that is subject to a certificate of take or a certificate of deposit recorded prior to July 1, 2007, in the circuit court clerk's office for the circuit where the real property is located or real property that is the subject of a petition for condemnation filed prior to July 1, 2007.

§ 2.2-3124. Civil penalty from violation of this chapter.

In addition to any other fine or penalty provided by law, ~~any money or other thing of value derived by an officer or employee from a violation who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be forfeited and, in the event of a knowing violation, there may also be imposed subject to a civil penalty in an amount equal to the amount of money or thing of value forfeited to the Commonwealth or the local government as the case may be received as a result of such violation.~~ If the thing of value received by the officer or employee in violation of ~~this chapter~~ §§ 2.2-3103 through 2.2-3112 ~~should enhance~~ increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of ~~forfeiture~~ the civil penalty. Further, all money or other things of value received as a result of such violation shall be forfeited in accordance with the provisions of § 19.2-386.33.

§ 3.2-4212. Penalties and other remedies.

A. In addition to any other civil or criminal penalty or remedy provided by law, upon a determination that any person has violated § 3.2-4207 or any regulation adopted pursuant thereto, the Commissioner may revoke or suspend such person's privilege to purchase tax stamps at a discounted rate. Each stamp affixed and each offer to sell cigarettes in violation of § 3.2-4207 shall constitute a separate violation. Upon a determination of a violation of § 3.2-4207 or any regulations adopted pursuant thereto, the Commissioner may also impose a civil penalty in an amount not to exceed the greater of (i) 500 percent of the retail value of the cigarettes sold or (ii) \$5,000.

B. Any cigarettes that have been sold, offered for sale or possessed for sale in the Commonwealth, or imported for personal consumption in the Commonwealth, in violation of § 3.2-4207, shall be deemed contraband and may not be sold or offered for sale unless such cigarettes are listed in the Directory. Any such cigarettes that are sold or offered for sale when not included in the Directory shall be subject to confiscation and forfeiture. Any such confiscation and forfeiture shall be governed by the procedures contained in § ~~4.1-338~~ Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, which shall apply mutatis mutandis; except that all such cigarettes so confiscated and forfeited shall be destroyed and not resold.

C. The Attorney General may seek an injunction to restrain a threatened or actual violation of § 3.2-4207, subsection A of § 3.2-4209, subsection B of § 3.2-4209, or subsection C of § 3.2-4209 by a stamping agent and to compel the stamping agent to comply with such provisions. In any action brought pursuant to this subsection in which the Commonwealth prevails, the Commonwealth shall be entitled to recover the reasonable costs of investigation, costs of the action and reasonable ~~attorneys'~~ attorney fees.

D. It shall be unlawful for a person to (i) sell or distribute cigarettes or (ii) acquire, hold, own,

possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the Commonwealth in violation of § 3.2-4207. A violation of this section involving less than 3,000 packages of cigarettes is a Class 1 misdemeanor. A violation of this section involving 3,000 or more packages of cigarettes is a Class 1 misdemeanor, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of 90 days.

§ 3.2-5139. Disposition of proceeds from sale of such goods.

The proceeds arising from any sale of seized property or goods shall be paid into the state treasury and credited to the general fund disposed of in accordance with § 19.2-386.14. If the owner or party claiming the property or goods can produce and prove a written guaranty of purity, signed by the wholesaler, jobber, manufacturers, or other party residing within the Commonwealth from whom the articles were purchased, then the proceeds of the sale, over and above the costs of seizure, forfeiture and sale, shall be paid to the owner or claimant to reimburse him, to the extent of such surplus, for his actual loss resulting from the seizure and forfeiture as shown by the invoice.

§ 4.1-336. Contraband beverages and other articles subject to forfeiture.

All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of this title, and any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such property except motor vehicles which proceedings shall be in accordance with §§ 4.1-339 through 4.1-348.

Such dangerous weapons seized by any officer charged with the enforcement of this title shall be forfeited to the Commonwealth upon the conviction of the person owning or possessing such weapons and shall be sold by order of court and the proceeds of such sale shall be paid into the Literary Fund Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 6.2-1003. When security not required; payment of probate taxes and fees.

A. No bank or trust company with a minimum unimpaired capital stock of \$50,000 or more shall be required by any officer or court of the Commonwealth to (i) give security upon appointment to or acceptance of any office of trust which it may, by law, be authorized to execute or (ii) give security upon any bond given pursuant to § 4.1-341 19.2-386.6 or similar statute; however, no bank or trust company shall qualify on an estate having a value in excess of its combined unimpaired capital and surplus without giving bond for such excess.

B. When such bank or trust company shall qualify on any office of trust, the clerk in lieu of collecting the fees under Title 17.1 and probate taxes may render a bill or statement to the bank or trust company to be paid within five business days.

§ 6.2-1085. When security not required.

No association with a minimum combined unimpaired capital and surplus of \$50,000 or more shall be required by any officer or court of the Commonwealth to give security upon appointment to or acceptance of any fiduciary office which it may, by law, be authorized to execute, or to give security upon any bond given pursuant to § 4.1-341 19.2-386.6 or similar statute. No association shall qualify on an estate having a value in excess of its combined unimpaired capital and surplus without giving security for such excess on its bond, unless the giving of such security is waived under the terms of the governing instrument or by court order.

§ 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction.

A. Except as otherwise provided herein, any person violating any provision of § 18.2-266 shall be guilty of a Class 1 misdemeanor with a mandatory minimum fine of \$250. If the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of five days or, (ii) if the level was more than 0.20, for an additional mandatory minimum period of 10 days.

B. 1. Any person convicted of a second offense committed within less than five years after a prior offense under § 18.2-266 shall upon conviction of the second offense be punished by a mandatory minimum fine of \$500 and by confinement in jail for not less than one month nor more than one year.

Twenty days of such confinement shall be a mandatory minimum sentence.

2. Any person convicted of a second offense committed within a period of five to 10 years of a prior offense under § 18.2-266 shall upon conviction of the second offense be punished by a mandatory minimum fine of \$500 and by confinement in jail for not less than one month. Ten days of such confinement shall be a mandatory minimum sentence.

3. Upon conviction of a second offense within 10 years of a prior offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days or, (ii) if the level was more than 0.20, for an additional mandatory minimum period of 20 days. In addition, such person shall be fined a mandatory minimum fine of \$500.

C. 1. Any person convicted of three offenses of § 18.2-266 committed within a 10-year period shall upon conviction of the third offense be guilty of a Class 6 felony. The sentence of any person convicted of three offenses of § 18.2-266 committed within a 10-year period shall include a mandatory minimum sentence of 90 days, unless the three offenses were committed within a five-year period, in which case the sentence shall include a mandatory minimum sentence of confinement for six months. In addition, such person shall be fined a mandatory minimum fine of \$1,000.

2. The punishment of any person convicted of a fourth or subsequent offense of § 18.2-266 committed within a 10-year period shall, upon conviction, include a mandatory minimum term of imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of \$1,000. Unless otherwise modified by the court, the defendant shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years.

3. The vehicle solely owned and operated by the accused during the commission of a felony violation of § 18.2-266 shall be subject to seizure and forfeiture. After an arrest for a felony violation of § 18.2-266, the Commonwealth may file an information in accordance with § 19.2-386.1. If the information is filed, the Commonwealth shall notify the Commissioner of the Department of Motor Vehicles that the property is subject to seizure. The Commissioner shall act upon such notification pursuant to the provisions for certification and notice applicable to a seizure under § 19.2-375, except that the Commissioner shall serve the written notice of the seizure upon the registered owner and lienor in accordance with the requirements of § 8.01-296. Any seizure shall be stayed until conviction and the exhaustion of all appeals at which time, if the information has been filed, the Commonwealth shall immediately commence seizure of the property in accordance with § 19.2-386.2.

An immediate family member of the owner of any motor vehicle for which an information has been filed under this section who was not the driver at the time of the violation may petition the court in which such information was filed for the release of the motor vehicle. If the immediate family member proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if that motor vehicle is seized and forfeited, the court, in its discretion, may release the vehicle.

In the event the vehicle was sold to a bona fide purchaser subsequent to the arrest but prior to seizure in order to avoid seizure and forfeiture, the Commonwealth shall have a right of action against the seller for the proceeds of the sale § 19.2-386.34.

D. In addition to the penalty otherwise authorized by this section or § 16.1-278.9, any person convicted of a violation of § 18.2-266 committed while transporting a person 17 years of age or younger shall be (i) fined an additional minimum of \$500 and not more than \$1,000 and (ii) sentenced to a mandatory minimum period of confinement of five days.

E. For the purpose of determining the number of offenses committed by, and the punishment appropriate for, a person under this section, an adult conviction of any person, or finding of guilty in the case of a juvenile, under the following shall be considered a conviction of § 18.2-266: (i) the provisions of § 18.2-36.1 or the substantially similar laws of any other state or of the United States, (ii) the provisions of §§ 18.2-51.4, 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or town in this Commonwealth or the laws of any other state or of the United States substantially similar to the provisions of § 18.2-51.4, or § 18.2-266, or (iii) the provisions of subsection A of § 46.2-341.24 or the substantially similar laws of any other state or of the United States.

F. Mandatory minimum punishments imposed pursuant to this section shall be cumulative, and mandatory minimum terms of confinement shall be served consecutively. However, in no case shall punishment imposed hereunder exceed the applicable statutory maximum Class 1 misdemeanor term of confinement or fine upon conviction of a first or second offense, or Class 6 felony term of confinement or fine upon conviction of a third or subsequent offense.

§ 18.2-340. County ordinances prohibiting illegal gambling.

The governing body of any county may adopt ordinances prohibiting illegal gambling and other illegal activity related thereto, including a provision for forfeiture proceedings in the name of the county accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. Such ordinances shall not conflict with the provisions of this article or with other state laws and any penalties provided for violation of such ordinances shall not exceed a fine of \$2,500 or confinement in jail for twelve 12 months, either or both.

#### CHAPTER 22.1

##### FORFEITURES IN DRUG CASES ENFORCEMENT OF FORFEITURES.

§ 19.2-386.1. Commencing an action of forfeiture.

*Except as otherwise specifically provided by law, whenever any property is forfeited to the Commonwealth by reason of the violation of any law, or if any statute provides for the forfeiture of any property or money, or if any property or money be seized as forfeited for a violation of any of the provisions of this Code, the Commonwealth shall follow the procedures set forth in this chapter.*

An action against any property subject to seizure under the provisions of § ~~19.2-386.15~~ or § ~~19.2-386.22~~ Chapter 22.2 (§ 19.2-386.15 et seq.) shall be commenced by the filing of an information in the clerk's office of the circuit court. Any information shall be filed in the name of the Commonwealth by the attorney for the Commonwealth or may be filed by the Attorney General if so requested by the attorney for the Commonwealth. Venue for an action of forfeiture shall lie in the county or city where (i) the property is located, (ii) the property is seized, or (iii) an owner of the property could be prosecuted for the illegal conduct alleged to give rise to the forfeiture. Such information shall (i) (a) name as parties defendant all owners and lienholders then known or of record and the trustees named in any deed of trust securing such lienholder, (ii) (b) specifically describe the property, (iii) (c) set forth in general terms the grounds for forfeiture of the named property, (iv) (d) pray that the same be condemned and sold or otherwise be disposed of according to law, and (v) (e) ask that all persons concerned or interested be notified to appear and show cause why such property should not be forfeited. In all cases, an information shall be filed within three years of the date of actual discovery by the Commonwealth of the last act giving rise to the forfeiture or the action for forfeiture will be barred.

§ 19.2-386.2. Seizure of named property.

A. When any property subject to seizure under § ~~19.2-386.15~~ or § ~~19.2-386.22~~ Chapter 22.2 (§ 19.2-386.15 et seq.) or other provision under the Code has not been seized at the time an information naming that property is filed, the clerk of the circuit court or a judge of the circuit court, upon motion of the attorney for the Commonwealth wherein the information is filed, shall issue a warrant to the sheriff or other state or local law-enforcement officer authorized to serve criminal process in the jurisdiction where the property is located, describing the property named in the complaint and authorizing its immediate seizure.

B. In all cases of seizure of real property, a notice of lis pendens shall be filed with the clerk of the circuit court of the county or city wherein the property is located and shall be indexed in the land records in the name or names of those persons whose interests appear to be affected thereby.

§ 19.2-386.2:1. Notice to Commissioner of Department of Motor Vehicles; duties of Commissioner.

*If the property seized is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the attorney for the Commonwealth shall forthwith notify the Commissioner of the Department of Motor Vehicles, by certified mail, of such seizure and the motor number of the vehicle so seized, and the Commissioner shall promptly certify to such attorney for the Commonwealth the name and address of the person in whose name such vehicle is registered, together with the name and address of any person holding a lien thereon, and the amount thereof. The Commissioner shall also forthwith notify such registered owner and lienor, in writing, of the reported seizure and the county or city wherein such seizure was made.*

*The certificate of the Commissioner, concerning such registration and lien, shall be received in evidence in any proceeding, either civil or criminal, under any provision of this chapter, in which such facts may be material to the issue involved.*

§ 19.2-386.3. Notice of seizure for forfeiture and notice of motion for judgment.

A. If an information has not been filed, then upon seizure of any property under § ~~19.2-386.15~~ or § ~~19.2-386.22~~ Chapter 22.2 (§ 19.2-386.15 et seq.) or other provision under the Code, the agency seizing the property shall forthwith notify in writing the attorney for the Commonwealth in the county or city in which the seizure occurred, who shall, within 21 days of receipt of such notice, file a notice of seizure for forfeiture with the clerk of the circuit court. Such notice of seizure for forfeiture shall specifically describe the property seized, set forth in general terms the grounds for seizure, identify the date on which the seizure occurred, and identify all owners and lien holders then known or of record, including the treasurer of the locality in which the seized property is located. The clerk shall forthwith mail by first-class mail notice of seizure for forfeiture to the last known address of all identified owners

and lien holders. When property has been seized under ~~§ 19.2-386.15 or § 19.2-386.22~~ Chapter 22.2 (§ 19.2-386.15 et seq.) or other provision under the Code prior to filing an information, then an information against that property shall be filed within 90 days of the date of seizure or the property shall be released to the owner or lien holder.

B. Except as to corporations, all parties defendant shall be served, in accordance with § 8.01-296, with a copy of the information and a notice to appear prior to any motion for default judgment on the information. The notice shall contain a statement warning the party defendant that his interest in the property shall be subject to forfeiture to the Commonwealth unless within 30 days after service on him of the notice, or before the date set forth in the order of publication with respect to the notice, an answer under oath is filed in the proceeding setting forth (i) the nature of the defendant's claim, (ii) the exact right, title or character of the ownership or interest in the property and the evidence thereof, and (iii) the reason, cause, exemption or defense he may have against the forfeiture of his interest in the property, including but not limited to the exemptions set forth in § 19.2-386.8. Service upon corporations shall be made in accordance with § 8.01-299 or subdivision 1 or 2 of § 8.01-301; however, if such service cannot be thus made, it shall be made by publication in accordance with § 8.01-317.

§ 19.2-386.4. Records and handling of seized property.

Any agency seizing property under §§ 19.2-386.2, ~~19.2-386.15 or § 19.2-386.22~~ Chapter 22.2 (§ 19.2-386.15 et seq.), or other provision under the Code, pending forfeiture and final disposition, may do any of the following:

1. Place the property under constructive seizure by posting notice of seizure for forfeiture on the property or by filing notice of seizure for forfeiture in any appropriate public record relating to property;

2. Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest-bearing account;

3. Remove the property to a place designated by the circuit court in the county or city wherein the property was seized; or

4. Provide for another custodian or agency to take custody of the property and remove it to an appropriate location within or without the jurisdiction of the circuit court in the county or city wherein the property was seized or in which the complaint was filed.

A report regarding the type of property subject to forfeiture and its handling pursuant to this section and § 19.2-386.5, and the final disposition of the property shall be filed by the seizing agency with the Department of Criminal Justice Services in accordance with regulations promulgated by the Board.

§ 19.2-386.5. Release of seized property.

At any time prior to the filing of an information, the attorney for the Commonwealth in the county or city in which the property has been seized pursuant to ~~§ 19.2-386.15 or § 19.2-386.22~~ Chapter 22.2 (§ 19.2-386.15 et seq.) or other provision under the Code may, in his discretion, upon the payment of costs incident to the custody of the seized property, return the seized property to an owner or lien holder, without requiring that the owner or lien holder post bond as provided in § 19.2-386.6, if he believes the property is properly exempt from forfeiture pursuant to § 19.2-386.8.

§ 19.2-386.14. Sharing of forfeited assets.

A. All cash, negotiable instruments, and proceeds from a sale conducted pursuant to § 19.2-386.7 or 19.2-386.12, after deduction of expenses, fees, and costs as provided in § 19.2-386.12, shall, as soon after entry of the forfeiture as is practicable, be distributed in a manner consistent with this chapter and Article VIII, Section 8 of the Constitution of Virginia.

A1. All cash, negotiable instruments and proceeds from a sale conducted pursuant to § 19.2-386.7 or § 19.2-386.12, after deduction of expenses, fees and costs as provided in § 19.2-386.12, shall, as soon after entry of the forfeiture as is practicable, be paid over to the state treasury into a special fund of the Department of Criminal Justice Services for distribution in accordance with this section. The forfeited property and proceeds, less ~~ten~~ 10 percent, shall be made available to federal, state and local agencies to promote law enforcement in accordance with this section and regulations adopted by the Criminal Justice Services Board to implement the asset-sharing program.

The ~~ten~~ 10 percent retained by the Department shall be held in a nonreverting fund, known as the Asset Sharing Administrative Fund. Administrative costs incurred by the Department to manage and operate the asset-sharing program shall be paid from the Fund. Any amounts remaining in the Fund after payment of these costs shall be used to promote state or local law-enforcement activities. Distributions from the Fund for these activities shall be based upon need and shall be made from time to time in accordance with regulations promulgated by the Board.

B. Any federal, state or local agency or office that directly participated in the investigation or other law-enforcement activity which led, directly or indirectly, to the seizure and forfeiture shall be eligible for, and may petition the Department for, return of the forfeited asset or an equitable share of the net proceeds, based upon the degree of participation in the law-enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law-enforcement effort with

respect to the violation of law on which the forfeiture is based. Upon finding that the petitioning agency is eligible for distribution and that all participating agencies agree on the equitable share of each, the Department shall distribute each share directly to the appropriate treasury of the participating agency.

If all eligible participating agencies cannot agree on the equitable shares of the net proceeds, the shares shall be determined by the Criminal Justice Services Board in accordance with regulations which shall specify the criteria to be used by the Board in assessing the degree of participation in the law-enforcement effort resulting in the forfeiture.

C. After the order of forfeiture is entered *concerning any motor vehicle, boat, aircraft, or other tangible personal property*, any seizing agency may (i) petition the Department for return of ~~any forfeited motor vehicle, boat or aircraft or other tangible personal~~ the property which that is not subject to a grant or pending petition for remission or (ii) *request the circuit court to order the property destroyed*. Where all the participating agencies agree upon the equitable distribution of the tangible personal property, the Department shall return the property to those agencies upon finding that (i) (a) the agency meets the criteria for distribution as set forth in subsection B and (ii) (b) the agency has a clear and reasonable law-enforcement need for the forfeited property.

If all eligible participating agencies cannot agree on the distribution of the property, distribution shall be determined by the Criminal Justice Services Board as in subsection B, taking into consideration the clear and reasonable law-enforcement needs for the property which the agencies may have. In order to equitably distribute tangible personal property, the Criminal Justice Services Board may require the agency receiving the property to reimburse the Department in cash for the difference between the fair market value of the forfeited property and the agency's equitable share as determined by the Criminal Justice Services Board.

*If a seizing agency has received property for its use pursuant to this section, when the agency disposes of the property (1) by sale, the proceeds shall be distributed as set forth in this section; or (2) by destruction pursuant to a court order, the agency shall do so in a manner consistent with this section.*

D. All forfeited property, including its proceeds or cash equivalent, received by a participating state or local agency pursuant to this section shall be used to promote law enforcement but shall not be used to supplant existing programs or funds. The Board shall promulgate regulations establishing an audit procedure to ensure compliance with this section.

§ 19.2-386.16. Forfeiture of motor vehicles used in commission of certain crimes.

A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a second or subsequent offense of §§ 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356 or § 18.2-357 or of a similar ordinance of any county, city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is \$200 or more, or any stolen property obtained as a result of a robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a misdemeanor violation of subsection D of § 18.2-47 or a felony violation of (i) Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2 or (ii) § 18.2-357 where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

C. Forfeiture of such vehicle shall be enforced as is provided in §§ 4.1-339 through 4.1-348 as to vehicles used for the transportation of illegally acquired alcoholic beverages, and the provisions of §§ 4.1-339 through 4.1-348 shall apply, *mutatis mutandis*, to proceedings for the enforcement of such forfeiture except that venue for the forfeiture proceeding shall be in the county or city in which the offense occurred.

D. The agency seizing the motor vehicle or other conveyance shall, for such period of time as the court prescribes, be permitted the use and operation of the motor vehicle or other conveyance, after court forfeiture, for the investigation of crimes against the Commonwealth by the agency seizing the motor vehicle or other conveyance. The agency using or operating each motor vehicle shall have insurance on each vehicle used or operated for liability and property damage Chapter 22.1 (§ 19.2-386.1 et seq.).

§ 19.2-386.19. Seizure of property used in connection with money laundering.

The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2: (i) all money, equipment, motor

vehicles, and all other personal and real property of any kind or character used in substantial connection with the laundering of proceeds of some form of activity punishable as a felony under the laws of the Commonwealth, another state or territory of the United States, the District of Columbia, or the United States; ~~and;~~ (ii) all money or other property, real or personal, traceable to the proceeds of some form of activity punishable as a felony under the laws of the Commonwealth, another state or territory of the United States, the District of Columbia, or the United States, together with any interest or profits derived from the investment of such proceeds or other property; *and (iii) all money, equipment, motor vehicles, and all other personal and real property of any kind or character used to or intended to be used to promote money laundering.* Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation is a term of imprisonment of not less than five years. All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et seq.) ~~of this title,~~ and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2.

§ 19.2-386.26. Seizure and forfeiture of drug paraphernalia.

All drug paraphernalia as defined in Article 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 shall be forfeited to the Commonwealth and may be seized and disposed of in the same manner as provided in § 19.2-386.23, subject to the rights of an innocent lienor, to be recognized as under § ~~4.1-343~~ 19.2-386.8.

§ 19.2-386.29. Forfeiture of certain weapons used in commission of criminal offense.

All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, ballistic knives, razors, slingshots, brass or metal knucks, blackjacks, stun weapons, and other weapons used by any person in the commission of a criminal offense, shall, upon conviction of such person, be forfeited to the Commonwealth by order of the court trying the case. The court shall dispose of such weapons as it deems proper by entry of an order of record. Such disposition may include the destruction of the weapons or, subject to any registration requirements of federal law, sale of the firearms to a licensed dealer in such firearms in accordance with the provisions of Chapter 22 (§ ~~19.2-369~~ et seq.) ~~of this title~~ 22.1 (§ 19.2-386.1 et seq.) regarding sale of property forfeited to the Commonwealth.

The proceeds of any sale of such weapon shall be paid in accordance with the provisions of Article VIII, Section 8 of the Constitution of Virginia. ~~In addition,~~ the court may authorize the seizing law-enforcement agency to use the weapon for a period of time as specified in the order. When the seizing agency ceases to so use the weapon, it shall be disposed of as otherwise provided in this section.

However, upon petition to the court and notice to the attorney for the Commonwealth, the court, upon good cause shown, shall return any such weapon to its lawful owner after conclusion of all relevant proceedings if such owner (i) did not know and had no reason to know of the conduct giving rise to the forfeiture and (ii) is not otherwise prohibited by law from possessing the weapon. The owner shall acknowledge in a sworn affidavit to be filed with the record in the case or cases that he has retaken possession of the weapon involved.

§ 19.2-386.30. Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise; innocent owners or lienors.

All money, gambling devices, office equipment and other personal property used in connection with an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any law-enforcement officer or which shall lawfully come into his custody, shall be forfeited to the Commonwealth ~~by order of the court in which a conviction under Article 4 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 is obtained.~~ Such court shall order all money so forfeited to be paid over to the Commonwealth, and by order shall make such disposition of other property so forfeited as the court deems proper, including award of such property to any state agency or charitable organization for lawful purposes; ~~or in case of the sale thereof, the proceeds therefrom to be paid over to the Commonwealth.~~ ~~Provided, however, that such forfeiture shall not extinguish the rights of any person without knowledge of the illegal use of such property who is the lawful owner or who has a lien on the same, which has been perfected in the manner provided by law in accordance with the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.).~~

§ 19.2-386.31. Seizure and forfeiture of property used in connection with the exploitation and solicitation of children.

All audio and visual equipment, electronic equipment, devices and other personal property used in connection with the possession, production, distribution, publication, sale, possession with intent to distribute or making of child pornography that constitutes a violation of § 18.2-374.1 or 18.2-374.1:1, or in connection with the solicitation of a person less than 18 years of age that constitutes a violation of § 18.2-374.3 shall be subject to lawful seizure by a law-enforcement officer and shall be subject to forfeiture to the Commonwealth pursuant to Chapter 22 (§ ~~19.2-369~~ et seq.) ~~of this title by order of the court in which a conviction under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 is obtained.~~ Notwithstanding



the provisions of § 19.2-381, the court shall dispose of the forfeited property as it deems proper, including awarding the property to the agency seizing such property or to a state agency for lawful purposes. If the property is disposed of by sale, the court shall provide that the proceeds be paid into the Literary Fund.

A forfeiture under this section shall not extinguish the rights of any person without knowledge of the illegal use of the property who (i) is the lawful owner or (ii) has a valid and perfected lien on the property 22.1 (§ 19.2-386.1 et seq.). The Commonwealth shall file an information and notice of seizure in accordance with the procedures in Chapter 22.1 (§ 19.2-386.1 et seq.); however, any forfeiture action shall be stayed until conviction of the person whose property is subject to forfeiture. Upon his conviction, the court may dispose of the issue of forfeiture or may continue the civil case allowing the defendant time to answer, at the court's discretion.

§ 19.2-386.32. Seizure and forfeiture of property used in connection with the abduction of children. All moneys and other property, real and personal, owned by a person and used to further the abduction of a child in violation of § 18.2-47, 18.2-48, or 18.2-48.1 are subject to lawful seizure by a law-enforcement officer and are subject to forfeiture to the Commonwealth pursuant to Chapter 22 (§ 19.2-369 et seq.) 22.1 (§ 19.2-386.1 et seq.) by order of the court in which a conviction under § 18.2-47, 18.2-48, or 18.2-48.1 is obtained.

§ 19.2-386.33. Forfeiture of money, etc., derived from violation of §§ 2.2-3103 through 2.2-3112. In addition to any other fine or penalty provided by law, any money or other thing of value derived by an officer or employee from a violation of §§ 2.2-3103 through 2.2-3112 shall be forfeited, in accordance with the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.). If the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-3112 increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of forfeiture.

§ 19.2-386.34. Forfeiture of vehicle used in a felony violation of § 18.2-266. The vehicle solely owned and operated by the accused during the commission of a felony violation of § 18.2-266 shall be subject to seizure and forfeiture. After an arrest upon a felony violation of § 18.2-266, the vehicle may be forfeited to the Commonwealth pursuant to the procedures set forth in Chapter 22.1 (§ 19.2-386.1 et seq.). Any seizure shall be stayed until conviction and the exhaustion of all appeals at which time, if the information has been filed, the Commonwealth shall give notice of seizure to all appropriate parties pursuant to § 19.2-386.3.

An immediate family member of the owner of any motor vehicle for which an information has been filed under this section who was not the driver at the time of the violation may petition the court in which such information was filed for the release of the motor vehicle. If the immediate family member proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if that motor vehicle is seized and forfeited, the court, in its discretion, may release the vehicle.

In the event the vehicle was sold to a bona fide purchaser subsequent to the arrest but prior to seizure in order to avoid seizure and forfeiture, the Commonwealth shall have a right of action against the seller for the proceeds of the sale.

§ 22.1-142. How Fund constituted; management.

There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund," the present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary Fund pursuant to Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 and the proceeds of (i) all public lands donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture *except those items specifically exempted*, (v) all fines collected for offenses committed against the Commonwealth, and (vi) the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board of Education as prescribed by § 22.1-145.

§ 28.2-319. Forfeiture of fishing gear, etc.

Any net, pot, or other fishing device or gear used in violation of any of the provisions of this article shall be seized and forfeited to the Commonwealth. The forfeiture shall be enforced as provided in Chapter 22 (§ 19.2-369 et seq.) 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. The officer or other person seizing the property shall immediately give notice to the attorney for the Commonwealth.

§ 28.2-407. Forfeiture of fishing gear.

Any net, pot, or other fishing device or gear used in violation of any of the provisions of this article shall be seized and forfeited to the Commonwealth. The forfeiture shall be enforced as provided in Chapter 22 (§ 19.2-369 et seq.) 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. The officer or other person seizing the property shall immediately give notice to the attorney for the Commonwealth.

§ 28.2-821. Violations; penalty.

545 A. It is unlawful for any person to have in his possession, to store, to sell, or to offer for sale any  
 546 shellfish which have been removed or taken from a condemned area other than as provided in  
 547 § 28.2-810. Any person who violates this section or any provision of this chapter is guilty of a Class 1  
 548 misdemeanor.

549 B. Upon conviction of violating any provision of this chapter any boat, vessel, motor vehicle or  
 550 equipment used in committing the violation may be forfeited as provided by Chapter 22 (~~§ 19.2-369 et~~  
 551 ~~seq.~~) 22.1 (*§ 19.2-386.1 et seq.*) of Title 19.2.

552 § 28.2-900. Arrest with or without warrant; larceny; violations of boating laws and Title 62.1.

553 A. Officers may, with or without warrant, (i) arrest any person violating any provision of this  
 554 subtitle, (ii) seize any net, pot, or other fishing device or gear used in violating such laws and (iii) seize  
 555 fish, shellfish or marine organisms taken or handled in violation of this subtitle. Each seized property  
 556 shall be forfeited to the Commonwealth. The forfeiture shall be enforced as provided in Chapter 22  
 557 (~~§ 19.2-369 et seq.~~) 22.1 (*§ 19.2-386.1 et seq.*) of Title 19.2. The officer seizing the property to be  
 558 forfeited shall immediately give notice to the attorney for the Commonwealth.

559 B. All officers may arrest, with or without a warrant, any person who commits in his presence (i)  
 560 any larceny committed upon or adjacent to the waters of the Commonwealth, (ii) any violation of the  
 561 provisions of Chapter 7 of Title 29.1, or any regulations promulgated thereunder, or (iii) any violation of  
 562 the provisions of Chapter 18 (*§ 62.1-187 et seq.*) or 20 (*§ 62.1-194 et seq.*) of Title 62.1.

563 § 29.1-407. Forfeiture of furs.

564 Any furs found in the possession of any person or firm and acquired in violation of this article shall  
 565 be forfeited to the Commonwealth. The proceedings for forfeiture shall conform as far as practicable to  
 566 the provisions of Chapter 22 (~~§ 19.2-369 et seq.~~) 22.1 (*§ 19.2-386.1 et seq.*) of Title 19.2, and the net  
 567 proceeds of the forfeiture shall be paid into the Literary Fund.

568 § 29.1-521.2. Violation of § 18.2-286 while hunting; revocation of license and privileges.

569 A. Any firearm, crossbow or bow and arrow used by any person to hunt any game bird or game  
 570 animal in a manner which violates § 18.2-286 may, upon conviction of such person violating § 18.2-286,  
 571 be forfeited to the Commonwealth by order of the court trying the case. The forfeiture shall be enforced  
 572 as provided in Chapter 22 (~~§ 19.2-369 et seq.~~) 22.1 (*§ 19.2-386.1 et seq.*) of Title 19.2. The officer or  
 573 other person seizing the property shall immediately give notice to the attorney for the Commonwealth.

574 B. The court may revoke the current hunting license and privileges of a person hunting any game  
 575 bird or game animal in a manner that constitutes a violation of § 18.2-286. The court may prohibit that  
 576 person from hunting for a period of one to five years. If found hunting during this prohibited period, the  
 577 person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be  
 578 forwarded to the Department pursuant to subsection C of § 18.2-56.1.

579 § 29.1-523.1. Hunting deer with sights after dark; forfeiture of weapon and sighting device.

580 A. Any person who kills or attempts to kill any deer between one hour after sunset and one hour  
 581 before sunrise using a firearm equipped with any sighting device other than iron or open sights shall be  
 582 guilty of a Class 2 misdemeanor. In addition to this penalty, the court shall revoke the current hunting  
 583 license and privileges of the person convicted of violating this section and prohibit that person from  
 584 hunting for a period of one to five years. Notification of such revocation or prohibition shall be  
 585 forwarded to the Department pursuant to subsections C and D of § 18.2-56.1.

586 B. Every firearm equipped with any sighting device other than iron or open sights used with the  
 587 knowledge or consent of the owner in violation of this section shall be forfeited to the Commonwealth.  
 588 Upon being condemned as forfeited in proceedings under Chapter 22 (~~§ 19.2-369 et seq.~~) 22.1  
 589 (*§ 19.2-386.1 et seq.*) of Title 19.2, the proceeds of the sale shall be disposed of according to law.

590 This section shall not apply to persons duly authorized to kill deer according to the provisions of  
 591 § 29.1-529.

592 § 29.1-524. Forfeiture of vehicles and weapons used for killing or attempt to kill.

593 Every vehicle, firearm, crossbow, bow and arrow, or speargun used with the knowledge or consent of  
 594 the owner or lienholder thereof, in killing or attempting to kill deer between a half hour after sunset and  
 595 a half hour before sunrise in violation of § 29.1-523, and every vehicle used in the transportation of the  
 596 carcass, or any part thereof, of a deer so killed shall be forfeited to the Commonwealth. Upon being  
 597 condemned as forfeited in proceedings under Chapter 22 (~~§ 19.2-369 et seq.~~) 22.1 (*§ 19.2-386.1 et seq.*)  
 598 of Title 19.2, the proceeds of sale shall be disposed of according to law.

599 § 29.1-549. Hunting deer from watercraft.

600 A. Any person who kills or attempts to kill any deer while the person is in a boat or other type  
 601 watercraft shall be guilty of a Class 4 misdemeanor.

602 B. Every boat or other watercraft and their motors, and any firearm, crossbow, bow and arrow, or  
 603 speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting  
 604 to kill deer in violation of this section, shall be forfeited to the Commonwealth, and upon being  
 605 condemned as forfeited in proceedings under Chapter 22 (~~§ 19.2-369 et seq.~~) 22.1 (*§ 19.2-386.1 et seq.*)

of Title 19.2 the proceeds of sale shall be disposed of according to law.

§ 30-126. Civil penalty from violation of this chapter.

In addition to any other fine or penalty provided by law, any money or other thing of value derived by a legislator from a violation of §§ 30-103 through 30-108 shall be forfeited and, in the event of a knowing violation, there may also be imposed a civil penalty in an amount equal to the amount of money or thing of value forfeited to the Commonwealth. If the thing of value received by the legislator in violation of this chapter should enhance in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of ~~forfeiture~~ *the civil penalty*.

§ 46.2-867. Racing; seizure of motor vehicle.

If the owner of a motor vehicle (i) is convicted of racing such vehicle in a prearranged, organized, and planned speed competition in violation of § 46.2-865, (ii) is present in the vehicle which is being operated by another in violation of § 46.2-865, and knowingly consents to the racing, or (iii) is convicted of a violation of § 46.2-865.1, the vehicle shall be seized and ~~disposed of in the manner provided in §§ 4.1-339 through 4.1-348 for seizure and forfeiture of conveyances or vehicles used in the illegal transportation of alcoholic beverages~~ *shall be forfeited to the Commonwealth, and upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law.* Such sections shall apply mutatis mutandis.

The penalties imposed by these sections are in addition to any other penalty imposed by law.

§ 46.2-1087. Forfeiture of vehicles equipped with smoke projectors, etc.

Any motor vehicle found to be equipped with any device, appliance, equipment, or instrument, as mentioned in § 46.2-1086, or equipped for the installation or attachment of any "smoke screen" or gas or flame emitting device, appliance, equipment, or instrument, as so mentioned, shall be forfeited to the Commonwealth, ~~subject to the rights of an innocent owner and lien holders and upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law.~~ No such forfeiture, however, shall take place unless the owner or operator knows that such vehicle is so equipped.

§ 46.2-1605. Vehicles repaired or rebuilt for highway use; examinations; branding of titles.

Each salvage vehicle that has been repaired or rebuilt for use on the highways shall be examined by the Department or by a local law-enforcement official prior to the issuance of a title for the vehicle. The examination shall include a review of all documentation for the parts and labor used for the repair of the salvage vehicle and a verification of the vehicle's identification number, confidential number, and odometer reading. The Commissioner shall ensure that, in scheduling and performing examinations of salvage vehicles under this section, single vehicles owned by private owner-operators are afforded no lower priority than examinations of vehicles owned by motor vehicle dealers, salvage dealers, demolishers, rebuilders, salvage pools, or vehicle removal operators. The Commissioner may charge a fee of \$125 per vehicle, for the examination of repaired and rebuilt vehicles. When the examination is conducted by a local law-enforcement official, the Department shall reimburse the local law-enforcement department \$75 for its costs in conducting the examination and reporting its findings to the Department.

Any salvage vehicle whose vehicle identification number or confidential number has been altered, is missing, or appears to have been tampered with may be impounded by the Department or a local law-enforcement official until completion of an investigation by the Department. The vehicle may not be moved, sold, or tampered with until the completion of this investigation. Upon completion of an investigation by the Department, if the vehicle identification number is found to be missing or altered, a new vehicle identification number may be issued by the Department. If the vehicle is found to be a stolen vehicle and its owner can be determined, the vehicle shall be returned to him. If the owner cannot be determined or located and the person seeking to title the vehicle has been convicted of a violation of § 46.2-1074 or 46.2-1075, the vehicle shall be deemed forfeited to the Commonwealth. ~~Each such vehicle shall be sold at public auction and the proceeds thereof, after satisfaction of any liens, returned to the state treasury for use by the Department and said forfeiture shall proceed in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.~~ If the Department's examination of a repaired or rebuilt salvage vehicle indicates no irregularities, a title and registration may be issued for the vehicle upon application therefor to the Department by the owner of the salvage vehicle. The title issued by the Department and any subsequent title thereafter issued for the repaired or rebuilt vehicle shall be permanently branded to indicate that it is a repaired or rebuilt vehicle. All repaired and rebuilt vehicles shall be subject to all safety equipment requirements provided by law. No title or registration shall be issued by the Department for any vehicle for which a nonrepairable certificate has ever been issued.

§ 58.1-2274. Unlawful importing, transportation, delivery, storage or sale of fuel; sale to enforce assessment.

A. Upon the discovery of any fuel illegally imported into, or illegally transported, delivered, stored or sold in, the Commonwealth, the Commissioner shall order the tank or other storage receptacle in which the fuel is located to be seized and locked or sealed until the tax, penalties and interest levied

667 under this chapter are assessed and paid.

668 B. If the assessment for such tax is not paid within ~~thirty~~ 30 days, the Commissioner is hereby  
669 authorized, in addition to the other remedies authorized in this chapter, to sell such fuel and use the  
670 proceeds of such sale to satisfy the assessment due, with any funds which exceed the assessment and  
671 costs of the sale being returned to the owner of the fuel.

672 C. All fuel and any property, tangible or intangible, which may be found upon the person or in any  
673 vehicle which such person is using, including the vehicle itself, to aid the person in the transportation or  
674 sale of illegally transported, delivered, stored, sold, imported or acquired fuel, and any property found in  
675 the immediate vicinity of any place where such illegally transported, delivered, stored, sold, imported or  
676 acquired fuel may be located, including motor vehicles, tanks, and other storage devices, used to aid in  
677 the illegal transportation or sale of such fuel, shall be deemed contraband and shall be forfeited to the  
678 Commonwealth.

679 D. Any efforts by the Department to effect the forfeiture allowed under the authority of this section  
680 shall be governed by Chapter 22 (§ ~~19.2-369 et seq.~~) 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, mutatis  
681 mutandis. However, such procedures shall not be applicable to the Department's tax collection powers  
682 and the use of such powers to enforce a tax liability against the illegally transported, delivered, stored,  
683 sold, imported or acquired fuel.

684 2. That §§ 4.1-340 through 4.1-345 and 4.1-347 and Chapter 22 (§§ 19.2-369 through 19.2-386) of  
685 Title 19.2 of the Code of Virginia are repealed.