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**HOUSE BILL NO. 1464**

Offered January 11, 2023

Prefiled December 27, 2022

A *BILL to amend and reenact §§ 4.1-604, 4.1-606, 4.1-610, 4.1-614, 4.1-619, and 4.1-1105.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 a section numbered 4.1-629, by adding in Chapter 7 of Title 4.1 sections numbered 4.1-700 through 4.1-704, by adding in Chapter 10 of Title 4.1 sections numbered 4.1-1003 through 4.1-1007, by adding in Chapter 11 of Title 4.1 sections numbered 4.1-1104, 4.1-1106, 4.1-1116, and 4.1-1122, by adding in Chapter 12 of Title 4.1 sections numbered 4.1-1200, 4.1-1202, 4.1-1206, and 4.1-1207, by adding in Chapter 13 of Title 4.1 a section numbered 4.1-1307, by adding in Chapter 14 of Title 4.1 a section numbered 4.1-1400, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, relating to cannabis control; retail market; transitional sales; penalties.*

Patron—Hodges

Referred to Committee on General Laws

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

1. That §§ 4.1-604, 4.1-606, 4.1-610, 4.1-614, 4.1-619, and 4.1-1105.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 6 of Title 4.1 a section numbered 4.1-629, by adding in Chapter 7 of Title 4.1 sections numbered 4.1-700 through 4.1-704, by adding in Chapter 10 of Title 4.1 sections numbered 4.1-1003 through 4.1-1007, by adding in Chapter 11 of Title 4.1 sections numbered 4.1-1104, 4.1-1106, 4.1-1116, and 4.1-1122, by adding in Chapter 12 of Title 4.1 sections numbered 4.1-1200, 4.1-1202, 4.1-1206, and 4.1-1207, by adding in Chapter 13 of Title 4.1 a section numbered 4.1-1307, by adding in Chapter 14 of Title 4.1 a section numbered 4.1-1400, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108 as follows:

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

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;
2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;
3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law;
4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;
5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;
6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;
7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;
8. Establish a position for a Cannabis Social Equity Business Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;
9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement historically economically disadvantaged communities; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement historically economically disadvantaged communities as

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59 necessary;

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

64 11. Establish and implement a plan, in coordination with the Cannabis ~~Social Equity Business~~  
65 Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in  
66 the marijuana industry by people from *historically economically disadvantaged* communities ~~that have~~  
67 ~~been disproportionately impacted by marijuana prohibition and enforcement~~ and to positively impact  
68 those communities;

69 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

70 13. Adopt, use, and alter at will a common seal;

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

74 15. Make and enter into all contracts and agreements necessary or incidental to the performance of  
75 its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including  
76 agreements with any person or federal agency;

77 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial  
78 experts, investment bankers, superintendents, managers, and such other employees and special agents as  
79 may be necessary and fix their compensation to be payable from funds made available to the Authority.  
80 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5  
81 (§ 2.2-500 et seq.) of Title 2.2;

82 17. Receive and accept from any federal or private agency, foundation, corporation, association, or  
83 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive  
84 and accept from the Commonwealth or any state and any municipality, county, or other political  
85 subdivision thereof or from any other source aid or contributions of either money, property, or other  
86 things of value, to be held, used, and applied only for the purposes for which such grants and  
87 contributions may be made. All federal moneys accepted under this section shall be accepted and  
88 expended by the Authority upon such terms and conditions as are prescribed by the United States and as  
89 are consistent with state law, and all state moneys accepted under this section shall be expended by the  
90 Authority upon such terms and conditions as are prescribed by the Commonwealth;

91 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its  
92 business shall be transacted and the manner in which the powers of the Authority shall be exercised and  
93 its duties performed. The Board may delegate or assign any duty or task to be performed by the  
94 Authority to any officer or employee of the Authority. The Board shall remain responsible for the  
95 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where  
96 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.  
97 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such  
98 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance  
99 of the duties and tasks;

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

102 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
103 construction, based upon competitive principles;

104 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of  
105 Title 2.2;

106 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
107 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
108 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest  
109 therein, at such annual rental and on such terms and conditions as may be determined by the Board;  
110 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest  
111 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual  
112 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey  
113 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired  
114 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy  
115 and improve any land or building required for the purposes of this subtitle;

116 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be  
117 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,  
118 blending, and processing plants;

119 24. Appoint every agent and employee required for its operations, require any or all of them to give  
120 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the

services of experts and professionals;

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

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

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

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

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

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

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

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

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

#### **§ 4.1-606. Regulations of the Board.**

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

B. The Board shall promulgate regulations that:

1. Govern the ~~outdoor~~ cultivation and manufacture of retail marijuana by a ~~marijuana cultivation facility licensee and retail marijuana products~~, including security requirements to include related to lighting, physical security, and alarm requirements, ~~provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse~~ alarms and requirements for secure disposal of waste or unusable materials;

2. Establish security requirements for all marijuana establishments, including requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product preparation;

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

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

6. Establish *packaging requirements and* requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle. *Such provisions shall require that labels*

182 *include information regarding the amount of product that constitutes a single serving and the percentage*  
183 *and milligrams of tetrahydrocannabinol in each package and serving;*

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

189 8. Establish requirements for the form, content, and retention of all records and accounts by all  
190 licensees, *including the manner and timeframe in which licensees must make such records and accounts*  
191 *available to the Board;*

192 9. Provide alternative methods for licensees to maintain and store business records that are subject to  
193 Board inspection, including methods for Board-approved electronic and offsite storage;

194 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana  
195 stores in the community and (ii) metrics that have similarly shown an association with negative  
196 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall  
197 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

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

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

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

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

222 15. Establish standards and requirements for (i) any preference in the licensing process for ~~qualified~~  
223 ~~social equity applicants that intend to operate a marijuana establishment in a historically economically~~  
224 ~~disadvantaged community,~~ (ii) what percentage of application or license fees are waived for a ~~qualified~~  
225 ~~social equity applicant such applicants, and~~ (iii) a ~~any~~ low-interest business loan program for ~~qualified~~  
226 ~~social equity such applicants, and~~ (iv) ~~determining which jurisdictions are historically economically~~  
227 ~~disadvantage communities, as defined in § 56-576;~~

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

231 17. Establish reasonable time, place, and manner restrictions on ~~outdoor~~ advertising of retail  
232 marijuana or retail marijuana products; ~~not inconsistent with the provisions of this chapter, so. Such~~  
233 ~~restrictions shall ensure that such advertising displaces the illicit market, includes health and safety~~  
234 ~~warnings, and notifies the public of the location of marijuana establishments. Such regulations shall be~~  
235 ~~promulgated in accordance with § 4.1-1404;~~

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

238 19. ~~Establish restrictions on~~ 17. Notwithstanding subdivision C 4, allow pharmaceutical processors  
239 and industrial hemp processors that have been to be granted a license in more than one license category  
240 pursuant to subsection C of § 4.1-805 and establish restrictions that ensure all licensees have an equal  
241 and meaningful opportunity to participate in the market. Such regulations may limit the amount of  
242 products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that  
243 such processor may offer for sale in its retail marijuana stores;

18. Establish requirements for routine inspections of all marijuana establishments, which shall occur no less than once per year;

19. Establish minimum equipment and resource requirements for marijuana establishments;

20. Establish processes to ensure the safe and secure dispensing of retail marijuana and retail marijuana products;

21. Establish processes to ensure the safe wholesale distribution and transfer of retail marijuana and retail marijuana products;

22. Establish requirements regarding the sale of devices by licensees for administration of retail marijuana and retail marijuana products;

23. Establish a process for certain licensees to acquire from a registered industrial hemp dealer or processor industrial hemp extracts grown and processed in the Commonwealth in compliance with state and federal law and a process for licensees to formulate such extracts into retail marijuana products; and

24. Establish (i) the maximum amount of retail marijuana or retail marijuana products that a licensee may sell to a single purchaser during a period of time established by the Board and (ii) a retail sales monitoring program to ensure compliance with Board requirements regarding sales to a single purchaser.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the number of licenses issued shall not exceed the following limits: and designate a small business class for each license type

a. Retail marijuana stores, 400;

b. Marijuana wholesalers, 25;

c. Marijuana manufacturing facilities, 60; and

d. Marijuana cultivation facilities, 450.

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

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

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

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

5. Allow small business licensees, as determined by the Board, to (i) enter into cooperative agreements with other small business licensees and (ii) lease space and cultivate, manufacture, and sell retail marijuana and retail marijuana products on the premises of another licensee.

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

E. Courts shall take judicial notice of Board regulations.

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

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

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

**§ 4.1-610. Financial interests of Board, employees, and family members prohibited.**

305 No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise  
306 have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or  
307 in any entity that has submitted an application for a license under Chapter 8 (~~§ 4.1-800 et seq.~~). No  
308 Board member and no spouse or immediate family member of a Board member shall make any  
309 contribution to a candidate for office or officeholder at the local or state level or cause such a  
310 contribution to be made on his behalf.

311 **§ 4.1-614. Disposition of moneys collected by the Board.**

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

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

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

- 328 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
- 329 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to ~~§ 2.2-2499.8~~;
- 330 3. ~~Twenty-five percent to the Department of Behavioral Health and Developmental Services, which~~  
331 ~~shall distribute such appropriated funds to community services boards for the purpose of administering~~  
332 ~~substance use disorder prevention and treatment programs; and~~
- 333 4. Five percent to public health programs, including public awareness campaigns that are designed to  
334 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform  
335 the public of other potential risks.

336 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less  
337 local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to ~~§ 4.1-614~~ *this*  
338 *section* and all costs, expenses, and charges authorized by this section.

339 D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided  
340 in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under  
341 the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the  
342 locality in which they were collected. If revenues were collected from a marijuana establishment located  
343 in more than one locality by reason of the boundary line or lines passing through the marijuana  
344 establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall  
345 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the  
346 locality to which tax revenues are attributable.

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

353 **§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**  
354 **communications as alternative to regular mail; limitation.**

355 A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and  
356 such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or  
357 notice that is sent by the Board may be sent by regular mail.

358 B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to  
359 send any mail, notice, or other official communication by regular mail to ~~persons licensed under Chapter~~  
360 ~~8 (~~§ 4.1-800 et seq.~~) a licensee~~, upon the request of a licensee, the Board may instead send such mail,  
361 notice, or official communication by email, text message, or other electronic means to the email address,  
362 telephone number, or other contact information provided to the Board by the licensee, provided that the  
363 Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery  
364 or a certificate of service prepared by the Board confirming the electronic delivery.

365 C. No notice ~~required by § 4.1-903~~ to a licensee of a hearing that may result in the suspension or  
366 revocation of his license or the imposition of a civil penalty shall be sent by the Board by email, text

message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

**§ 4.1-629. Local referendum on prohibition of marijuana establishments.**

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

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

The question on the ballot shall be:

"Shall the operation of marijuana establishments be prohibited in \_\_\_\_\_ (name of county, city, or town)?"

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

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

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

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

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

E. Referendums held pursuant to this section shall not apply to or prohibit the licensure and operation of a marijuana establishment by and on the premises of a pharmaceutical processor or cannabis dispensing facility that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act prior to January 1, 2023.

**§ 4.1-700. License requirement; background checks; expiration.**

A. The Board may grant the following licenses:

1. Marijuana cultivation facility license;
2. Marijuana manufacturing facility license;
3. Marijuana wholesale license; and
4. Retail marijuana store license.

B. No person shall operate a marijuana establishment or exercise the privileges of any license set forth in subsection A without first obtaining a license from the Board.

C. Applications for a license shall be submitted on a form provided by the Board. The Board shall require that all applications include the name and signature of the applicant's compliance officer. The Board shall establish an application fee and any other requirements for such applications.

D. License applicants, including all material owners of any applicant, shall submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history record search to the Board or its designee, which shall be a governmental entity.

E. Each license shall expire annually on a date determined by the Board.

F. All licenses shall be displayed in a conspicuous place on the licensed premises.

**§ 4.1-701. Exemptions from licensure.**

The licensure requirements set forth in § 4.1-700 shall not apply to (i) a pharmaceutical processor or cannabis dispensing facility that has been issued a permit by the Board of Pharmacy pursuant to, and is operating in accordance with, Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered with the Commissioner of Agriculture and Consumer Services pursuant to, and operating in accordance with, Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; (iii) a manufacturer of industrial hemp extract or food containing an industrial hemp extract operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent such persons from obtaining a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises of a pharmaceutical processing facility in accordance with Article 4.2 of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 of Title 3.2.

**§ 4.1-702. Dispensing requirements and limitations; records.**

A. A licensee shall dispense retail marijuana and retail marijuana products only in person and to persons to whom retail marijuana and retail marijuana products may be lawfully sold.

B. Prior to the dispensing of retail marijuana or retail marijuana products, the licensee shall require the purchaser to present bona fide evidence of legal age indicating that the purchaser is 21 years of age or older.

C. Licensees shall maintain, on site or remotely by electronic means, for two years a paper or electronic copy of all transactions.

D. A licensee may only sell and dispense retail marijuana and retail marijuana products that have been registered by the Board.

**§ 4.1-703. Employees; background checks; qualifications.**

A. Licensees shall maintain criminal history record information for all employees and agents of the licensee in accordance with Board regulations. Criminal history record checks of employees and agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

B. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a licensee.

C. Licensees shall adopt policies for pre-employment drug screenings and regular, ongoing random drug screening of all employees.

D. In addition to other employees authorized by the Board, a licensee may employ individuals who have less than two years of relevant experience to (i) perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a Board-recognized certification or who has at least two years of experience cultivating plants and (ii) perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

**§ 4.1-704. Compliance officers.**

A. Every licensee that is authorized to cultivate, manufacture, or dispense retail marijuana or retail marijuana products shall designate one or more compliance officers. Compliance officers shall (i) personally supervise the licensee's cultivation, manufacturing, and dispensing areas, as applicable; (ii) ensure that security measures are adequate to protect the retail marijuana or retail marijuana products from diversion at all times; and (iii) determine the number of employees that can be safely and competently supervised at one time. However, no compliance officer shall supervise more than six persons performing the dispensing duties at one time.

B. The Board shall establish criteria for determining whether a person is qualified and fit to serve as a compliance officer.

C. The Board shall direct all communications related to enforcement of requirements related to the cultivation, manufacturing, and dispensing of retail marijuana and retail marijuana products by the licensee to the licensee's compliance officer.

**§ 4.1-1003. Marijuana tax; exceptions.**

A. A tax of 10 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail marijuana products. The tax shall be in addition to any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local law.

B. The tax shall not apply to any sale:

1. From a marijuana establishment to another marijuana establishment.

2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.



3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

4. Of a hemp product or regulated hemp product.

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

**§ 4.1-1004. Optional local marijuana tax.**

A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax shall be in addition to any local sales tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under § 4.1-1003.

B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section shall not apply within the limits of the town.

C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part 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 law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on the first day of the second month following its enactment.

E. Any tax levied under this section shall be administered and collected by the Authority in the same manner as provided for the tax imposed under § 4.1-1003.

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

**§ 4.1-1005. Tax returns and payments; commissions; interest.**

A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1007.

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

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

E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of goods or quits the business, such person shall make a final return and payment within 15 days after the date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any former owner.

F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004, interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

**§ 4.1-1006. Bonds.**

The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such surety as it determines is necessary to secure the payment of any tax, penalty, or

551 interest due or that may become due from such person. In lieu of such bond, securities approved by the  
552 Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the  
553 State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or  
554 private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the  
555 Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the  
556 person who deposited the securities.

557 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**  
558 **penalties; appeals.**

559 A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the  
560 date on which such taxes became due and payable. In the case of a false or fraudulent return with  
561 intent to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a  
562 proceeding in court for the collection of such taxes may be begun without assessment, at any time  
563 within six years from such date. The Authority shall not examine any person's records beyond the  
564 three-year period of limitations unless it has reasonable evidence of fraud or reasonable cause to  
565 believe that such person was required by law to file a return and failed to do so.

566 B. If any person fails to file a return as required by this section, or files a return that is false or  
567 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such  
568 person and assess the tax, plus any applicable interest and penalties. The Authority shall give such  
569 person 10 days' notice requiring such person to provide any records as it may require relating to the  
570 business of such person for the taxable period. The Authority may require such person or the agents  
571 and employees of such person to give testimony or to answer interrogatories under oath administered by  
572 the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any  
573 person fails to file a required return, refuses to provide required records, or refuses to answer  
574 interrogatories from the Authority, the Authority may make an estimated assessment based upon the  
575 information available to it and issue a memorandum of lien under subsection C for the collection of any  
576 taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

577 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay  
578 within 30 days after the due date, taking into account any extensions granted by the Authority, the  
579 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which  
580 the person's place of business is located or in which the person resides. If the person has no place of  
581 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of  
582 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties  
583 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment  
584 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as  
585 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias  
586 may issue at any time after the memorandum is filed. The lien on real estate shall become effective at  
587 the time the memorandum is filed in the jurisdiction in which the real estate is located. No  
588 memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of  
589 intent to file a lien; however, in those instances where the Authority determines that the collection of  
590 any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision  
591 of such notice, notification may be provided to the person concurrent with the filing of the memorandum  
592 of lien. Such notice shall be given to the person at his last known address.

593 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to  
594 appeal under subsection D.

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

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

608 D. Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under this section, and any  
609 penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to appeal and review under the  
610 Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record  
611 of the proceedings provided by the Authority in accordance with the Administrative Process Act. An  
612 appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1,

the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

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

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

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

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

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

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

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

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

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

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

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

E. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or

674 attempt to consume or purchase retail marijuana or retail marijuana products. Any person convicted of  
675 a violation of this subsection is guilty of a Class 1 misdemeanor.

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

678 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may**  
679 **not be sold; penalties; forfeiture.**

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

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

689 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed  
690 contraband and forfeited to the Commonwealth.

691 **§ 4.1-1116. Illegal advertising; penalty; exception.**

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

695 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana  
696 wholesaler licensees, and retail marijuana store licensees may advertise retail marijuana or retail  
697 marijuana products, provided that such advertising complies with Board regulations.

698 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of  
699 a Class 1 misdemeanor.

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

704 **§ 4.1-1122. Criminal immunity.**

705 No person shall be subject to arrest or prosecution for the purchase, possession, cultivation,  
706 manufacture, sale, or distribution of marijuana under Articles I (§ 18.2-247 et seq.) or 1.1  
707 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 if such person is engaging in activities permitted under  
708 this subtitle and Board regulations.

709 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

710 A. No licensee or any agent or employee of such licensee shall:

711 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of  
712 a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture,  
713 transport, sell, or test;

714 2. Sell retail marijuana or retail marijuana products to any person other than a person to whom  
715 such license or this subtitle authorizes him to sell;

716 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that  
717 such license or this subtitle authorizes him to sell, but in any place or in any manner other than such  
718 license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

719 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products  
720 when forbidden by this subtitle;

721 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail  
722 marijuana or retail marijuana products other than that which he is authorized to cultivate, manufacture,  
723 transport, sell, or test by such license or by this subtitle;

724 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was  
725 purchased by him;

726 7. Use or consume marijuana or marijuana products on the licensed premises; or

727 8. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at  
728 a retail marijuana store.

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

730 **§ 4.1-1202. Sale of or purchase for resale retail marijuana or retail marijuana products from a**  
731 **person without a license; penalty.**

732 A. No retail marijuana store licensee shall purchase for resale or sell any retail marijuana, retail  
733 marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than  
734 a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler licensee.

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

**§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to allow examination and inspection; penalty.**

A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii) deliver, keep, and preserve such records, invoices, and accounts as are required by Board regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in accordance with Board regulations. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may suspend or revoke any license of such licensee that was issued by the Authority.

**§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason to know such tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. Any person that fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004 is subject to a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five days after the Authority gives it notice that such check was returned unpaid, the person that tendered the check is guilty of a violation of § 18.2-182.1.

E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

**§ 4.1-1307. Punishment for violations of subtitle or regulations; bond.**

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

**§ 4.1-1400. Testing; registered products.**

A. The Board shall require licensees, prior to selling or offering for sale any retail marijuana or retail marijuana products, to provide a sample from each batch for testing by an independent laboratory. In the case of retail marijuana products, such testing shall be conducted after any manufacturing of the product is complete.

B. A valid sample size for testing shall be determined by the testing laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. In the case of retail marijuana products, no sample shall constitute less than 0.5 percent of the individual units to be dispensed from each homogenized batch. In the case of retail marijuana, the Board may limit testing to the following: cannabidiol, tetrahydrocannabinol, terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants.

C. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. Licensees may remediate retail marijuana or retail marijuana products that fail any quality testing

797 *standard except pesticides. Following remediation, all remediated retail marijuana or retail marijuana*  
798 *products shall be subject to laboratory testing and approved upon satisfaction of applicable testing*  
799 *standards, which shall be no more stringent than the initial testing conducted prior to remediation. If a*  
800 *batch of retail marijuana fails a retest after remediation, it may be processed into a retail marijuana*  
801 *product.*

802 *D. The Board may require stability testing of retail marijuana and retail marijuana products.*  
803 *However, stability testing shall not be required for any retail marijuana or retail marijuana products*  
804 *that have an expiration date of no more than six months from the date of registration approval. Stability*  
805 *testing of retail marijuana or retail marijuana products with an expiration date that is longer than six*  
806 *months shall be limited to microbial testing on a pass/fail basis and potency testing with a 10 percent*  
807 *deviation allowance. The concentration of tetrahydrocannabinol in any retail marijuana or retail*  
808 *marijuana product offered for sale may be up to 10 percent greater or less than the level of*  
809 *tetrahydrocannabinol identified during testing and included on the label. Licensees shall ensure that*  
810 *such tetrahydrocannabinol concentration is within such range. Licensees shall establish a stability*  
811 *testing schedule for retail marijuana and retail marijuana products in accordance with Board*  
812 *regulations.*

813 *F. Any laboratory that tests samples for a licensee shall (i) be registered with and approved by the*  
814 *Board, (ii) be located in the Commonwealth, (iii) have no ownership interest in a licensed marijuana*  
815 *establishment, (iv) hold a controlled substances registration certificate pursuant to § 54.1-3423, and (v)*  
816 *comply with quality and other standards established by Board regulation.*

817 *G. The Board shall register all cannabis products that meet testing, labeling, and packaging*  
818 *standards.*

819 **§ 6.2-108. Financial services for licensed marijuana establishments.**

820 *A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as*  
821 *provided in § 4.1-600.*

822 *B. A bank or credit union that provides a financial service to a licensed marijuana establishment,*  
823 *and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant*  
824 *to any state law or regulation solely for providing such a financial service or for further investing any*  
825 *income derived from such a financial service.*

826 *C. Nothing in this section shall require a bank or credit union to provide financial services to a*  
827 *licensed marijuana establishment.*

828 **2. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall**  
829 **promulgate regulations to implement the provisions of this act by September 1, 2023. With the**  
830 **exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative**  
831 **Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted**  
832 **pursuant thereto shall apply to the Board's initial adoption of regulations to implement the**  
833 **provisions of this act. However, prior to adopting any regulation, the Board shall publish a notice**  
834 **of opportunity to comment in the Virginia Register of Regulations and post the action on the**  
835 **Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a**  
836 **summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name,**  
837 **address, and telephone number of the agency contact person responsible for receiving public**  
838 **comments. Such notice shall be made at least 60 days in advance of the last date prescribed in**  
839 **such notice for submittals of public comment. The legislative review provisions of subsections A**  
840 **and B of § 2.2-4014 of the Code of Virginia shall apply to the promulgation or final adoption**  
841 **process for regulations pursuant to this section. The Board shall consider and keep on file all**  
842 **public comments received for any regulation adopted pursuant to this act.**

843 **3. That, except as otherwise provided in the fourth enactment of this act, the Board of Directors of**  
844 **the Virginia Cannabis Control Authority shall not issue any license pursuant to the provisions of**  
845 **this act prior to July 1, 2024.**

846 **4. § 1. That, notwithstanding any other provision of law, the Board of Pharmacy shall allow, on**  
847 **and after July 1, 2023, any pharmaceutical processor that holds a permit pursuant to § 54.1-3442.6**  
848 **of the Code of Virginia to sell cannabis products, as defined in § 54.1-3408.3 of the Code of**  
849 **Virginia, to persons who are 21 years of age or older without the need for a written certification.**  
850 **All sales and related activities conducted pursuant to this enactment shall be subject to regulations**  
851 **governing pharmaceutical processors set forth in 18VAC110-60 of the Virginia Administrative**  
852 **Code, subject to the following exceptions and requirements:**

853 **1. Part II (18VAC110-60-30 et seq.) of 18VAC110-60 and 18VAC110-60-310 of the Virginia**  
854 **Administrative Code shall not apply;**

855 **2. Pharmaceutical processors engaging in sales pursuant to the provisions of this enactment**  
856 **shall:**

857 **a. Sell cannabis products only in opaque, child-resistant, tamper-evident, and resealable**  
858 **packaging;**

b. Report quarterly to the Board of Pharmacy data regarding all sales conducted pursuant to this enactment, including information regarding violations, errors, and omissions;

c. Be permitted to cultivate the number of cannabis plants, as determined by the pharmaceutical processor, necessary to serve the demand for sales created by this enactment;

d. Dedicate a sufficient number of registers at each facility to registered patient sales and maintain sufficient inventory of cannabis products to satisfy the demands of such patients;

f. Submit to the Board of Directors of the Virginia Cannabis Control Authority and, upon approval by the Board of Directors of the Virginia Cannabis Control Authority, comply with a plan describing how the pharmaceutical processor will, in its health service area, (i) educate consumers about responsible consumption of cannabis products and (ii) incubate or support five or fewer independent small cannabis businesses; and

g. Pay a one-time \$1 million fee to the Department of Taxation prior to engaging in sales pursuant to this enactment;

3. Pharmaceutical processors engaging in sales pursuant to the provisions of this enactment shall not:

a. Deliver cannabis products or sell cannabis products at any location other than the pharmaceutical processor and cannabis dispensing facilities for which the pharmaceutical processor holds a permit pursuant to § 54.1-3442.6 of the Code of Virginia;

b. Advertise cannabis products to persons younger than 21 years of age;

c. Sell to a person in a single transaction more than (i) one ounce of botanical cannabis products, (ii) five grams of cannabis concentrate products, or (iii) a quantity of infused cannabis products that contains more than 500 milligrams of tetrahydrocannabinol;

d. Sell any nonbotanical cannabis product with an individual unit dose containing more than 10 milligrams of tetrahydrocannabinol;

e. Be required to comply with any Board of Pharmacy regulation, requirement, or restriction not referenced in this enactment or any amendments or additions to the regulations referenced in this enactment unless such regulation, requirement, restriction, amendment, or addition is adopted by the General Assembly; or

f. Be subject to administrative action, liability, or other penalty based on the acts or omissions of any small cannabis business; and

4. Persons without a written certificate shall be permitted to access pharmaceutical processor and dispensing facilities for the purpose of purchasing cannabis products in accordance with the provisions of this enactment.

§ 2. That the Board of Pharmacy may suspend the privileges of a pharmaceutical processor to engage in sales under this enactment for substantial and repeated violations of the provisions of this enactment.

§ 3. That a tax of 10 percent shall be levied on the sale of cannabis products by pharmaceutical processors pursuant to this enactment, which shall be in lieu of any tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 of the Code of Virginia or any other state or local law. Pharmaceutical processors shall remit such tax to the Department of Taxation. The Department of Taxation shall deposit tax revenues from the 10 percent excise tax, as well as the fees received from pharmaceutical processors pursuant to § 1 of this enactment, into the account of the Virginia Cannabis Control Authority. The Board may use such funds to assist cannabis businesses located in historically economically disadvantaged communities that have been designated by the Board of Directors of the Virginia Cannabis Control Authority.

§ 4. That the Board of Pharmacy and the Department of Taxation may assess and collect fees from each pharmaceutical processor that sells cannabis products pursuant to this enactment in an amount sufficient to recover the costs associated with the implementation of the provisions of this enactment.

§ 5. That the provisions of this enactment shall not apply to or otherwise affect the sale of cannabis products to patients with written certifications by pharmaceutical processors pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act.

§ 6. That no agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be subject to any disciplinary action by a professional licensing board for (i) possessing or manufacturing cannabis for the purposes of producing cannabis products in accordance with the provisions of this enactment or (ii) possessing, manufacturing, or distributing cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this enactment.

§ 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall promulgate regulations that allow industrial hemp processors that registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.)

920 of Title 3.2 of the Code of Virginia prior to January 1, 2021, to engage in the cultivation,  
921 processing, and sale of cannabis products. Such regulations shall model, to the extent practicable,  
922 the requirements governing pharmaceutical processors as set forth in this enactment.

923 § 8. That the provisions of this enactment shall become effective in due course.

924 § 9. That the provisions of this enactment shall expire when processors engaging in the sale of  
925 cannabis products pursuant to the provisions of this enactment are authorized by the Virginia  
926 Cannabis Control Authority to apply for and be granted licenses to cultivate, manufacture,  
927 wholesale, and sell at retail to consumers 21 years of age or older retail marijuana and retail  
928 marijuana products at the facilities for which the processor holds a permit or registration as set  
929 forth in this enactment.

930 5. That the provisions of this act may result in a net increase in periods of imprisonment or  
931 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
932 necessary appropriation cannot be determined for periods of imprisonment in state adult  
933 correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I,  
934 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of  
935 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
936 appropriation cannot be determined for periods of commitment to the custody of the Department  
937 of Juvenile Justice.