

23106281D

HOUSE BILL NO. 2428

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 2023)

(Patron Prior to Substitute—Delegate Wilt)

*A BILL to amend and reenact § 4.1-600 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-1116, relating to marijuana; advertising restrictions; penalty.***Be it enacted by the General Assembly of Virginia:****1. That § 4.1-600 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-1116 as follows:****§ 4.1-600. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

"Marijuana" means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. "Marijuana" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

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

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

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

60 "Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label,
61 and package retail marijuana and retail marijuana products; to purchase or take possession of retail
62 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to
63 transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers,
64 retail marijuana stores, or other marijuana manufacturing facilities.

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

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

72 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test
73 marijuana, marijuana products, and other substances.

74 "Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of
75 retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a
76 marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to
77 transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana
78 plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail
79 marijuana store, or another marijuana wholesaler.

80 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed
81 marijuana establishment.

82 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a
83 licensed marijuana establishment.

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

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

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

95 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana
96 establishment.

97 "Retail marijuana products" means marijuana products that are manufactured and sold by a licensed
98 marijuana establishment.

99 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of
100 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
101 marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail
102 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

103 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;
104 peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail
105 marijuana or retail marijuana products.

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

108 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other
109 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or
110 manufacturing.

111 "Tetrahydrocannabinol" or "THC" means any naturally occurring or synthetic tetrahydrocannabinol,
112 including its salts, isomers, synthetic derivatives, salts of isomers, or salts of synthetic derivatives.

113 **§ 4.1-1116. Illegal advertising; exceptions; penalty.**

114 A. No person shall advertise in or send any advertising material into the Commonwealth regarding
115 marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol unless the
116 advertisement (i) is for a product that may be legally sold in the Commonwealth under Article 4.2
117 (§ 54.1-3442.5 et seq.) or Article 5 (§ 54.1-3443 et seq.) of the Drug Control Act or (ii) concerns the
118 treatment of addiction or substance abuse or is part of a public health awareness campaign.

119 B. Any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.