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## SENATE BILL NO. 448

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations  
on February 8, 2024)

(Patrons Prior to Substitute—Senators Rouse and Ebbin [SB 423])

A BILL to amend and reenact §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108; and to repeal §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

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

1. That §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 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 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108 as follows:

## § 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration that does not exceed the total tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the possession, handling, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this article or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

60 B. Nothing in this article shall be construed to authorize any person to violate any federal law or  
61 regulation.

62 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 48.2-247,  
63 18.2-248, 18.2-248.01, ~~48.2-248.1~~, or 18.2-250 for the involuntary growth of industrial hemp through the  
64 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's  
65 storage site, or process site.

66 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

67 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or  
68 the Department of Forensic Science, when signed by him, shall be *admissible as evidence in all*  
69 *prosecutions for violations of this subtitle and all controversies in any judicial proceedings touching the*  
70 *mixture analyzed by him of the facts therein stated and of the results of such analysis (i) in any*  
71 *criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and*  
72 *the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1*  
73 *or (ii) in any civil proceeding.* On motion of the accused or any party in interest, the court may require  
74 the forensic scientist making the analysis to appear as a witness and be subject to cross-examination,  
75 provided such motion is made within a reasonable time prior to the day on which the case is set for  
76 trial.

77 **§ 4.1-600. Definitions.**

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

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

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

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

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

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

90 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,  
91 grading, trimming, *packaging*, or other similar ~~processing~~ *manufacturing* of marijuana for use or sale.

92 "Cultivation" or "cultivate" does not include ~~manufacturing~~ *processing* or testing.

93 "*Edible hemp product*" means the same as that term is defined in § 3.2-4112.

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

96 "*Hemp product*" means the same as that term is defined in § 3.2-4112.

97 "*Historically economically disadvantaged community*" means the same as that term is defined in  
98 § 56-576.

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

101 "*Industrial hemp*" means the same as that term is defined in § 3.2-4112.

102 "*Industrial hemp extract*" means the same as that term is defined in § 3.2-5145.1.

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

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

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

109 "Marijuana" means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or  
110 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,  
111 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the  
112 mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such  
113 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus  
114 *Cannabis*; (ii) industrial hemp, as defined in ~~§ 3.2-4112~~, that is possessed by a person registered  
115 pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in ~~§ 3.2-4112~~, that  
116 is possessed by a person who holds a hemp producer license issued by the U.S. Department of  
117 Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in ~~§ 3.2-4112~~; (v) an  
118 industrial hemp extract, as defined in ~~§ 3.2-5145.1~~; or (vi) any substance containing a  
119 tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been  
120 placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act  
121 (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

"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 § 4.1-800.

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

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

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

"Marijuana processing facility" means a facility licensed under § 4.1-801.

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

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances § 4.1-804.

"Marijuana wholesaler transporter" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler § 4.1-803.

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

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

"Outdoor cultivation" means cultivation in an area exposed to natural sunlight and open to environmental conditions, including variable temperature, precipitation, and wind.

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

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

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

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

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

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

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of

183 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a  
184 marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail  
185 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers  
186 § 4.1-802.

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

190 "Secure agricultural greenhouse" means an enclosed structure that has transparent walls and roofing  
191 and is used for controlled-environment agriculture.

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

194 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other  
195 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or  
196 manufacturing processing.

197 "Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

198 "Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

199 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

200 A. The General Assembly has determined that there exists in the Commonwealth a need to control  
201 the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana  
202 products in the Commonwealth. Further, the General Assembly determines that the creation of an  
203 authority for this purpose is in the public interest, serves a public purpose, and will promote the health,  
204 safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this  
205 objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive  
206 of the legislative, executive, or judicial branches of state government, to be known as the Virginia  
207 Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle  
208 shall be deemed the performance of an essential governmental function and a matter of public necessity  
209 for which public moneys may be spent.

210 B. The Board of Directors of the Authority is vested with control of the possession, sale,  
211 transportation, distribution, and delivery of retail marijuana and retail marijuana products in the  
212 Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which  
213 retail marijuana and retail marijuana products are possessed, sold, transported, distributed, and delivered,  
214 so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health,  
215 safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the  
216 powers granted by this subtitle shall be in all respects for the benefit of the citizens of the  
217 Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the  
218 assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private  
219 individual, except that reasonable compensation may be paid for services rendered to or for the  
220 Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity  
221 with said purposes, and no private individual shall be entitled to share in the distribution of any of the  
222 corporate assets on dissolution of the Authority.

223 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**  
224 **compensation and expenses; duties.**

225 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an  
226 advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public  
227 health issues, trends, and impacts related to marijuana and marijuana legalization and make  
228 recommendations regarding health warnings, retail; marijuana and retail marijuana products safety and  
229 product composition; and public health awareness, programming, and related resource needs.

230 B. The Advisory Council shall have a total membership of 24 22 members that shall consist of 14 15  
231 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the  
232 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and  
233 geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as  
234 follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative  
235 from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the  
236 Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from  
237 the Medical Society of Virginia, and one of whom shall be a representative from the Virginia  
238 Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom  
239 shall be a representative from a community services board, one of whom shall be a person or health  
240 care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a  
241 person or health care provider with expertise in substance use disorder prevention, one of whom shall be  
242 a person with experience in disability rights advocacy, one of whom shall be a person with experience  
243 in veterans health care, and one of whom shall be a person with a social or health equity background;  
244 and four five to be appointed by the Governor, subject to confirmation by the General Assembly, one of

whom shall be a representative of a local health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis patient, *and one of whom shall be a representative of a cannabis testing laboratory that has operated in the Commonwealth for no less than one year.*

The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts, and state agency representatives.

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

D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to fulfill its purpose as described in subsection A:

1. To review multi-agency efforts to support collaboration and a unified approach on public health responses related to marijuana and marijuana legalization in the Commonwealth and to develop recommendations as necessary.

2. To monitor changes in drug use data related to marijuana and marijuana legalization in the Commonwealth and the science and medical information relevant to the potential health risks associated with such drug use, and make appropriate recommendations to the Department of Health and the Board.

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

#### **§ 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, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized pursuant to this subtitle;

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~~ *Minority and Small Business* Liaison who shall lead the Cannabis ~~Minority and Small Business Equity and Diversity~~ *Minority and Small Business* Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to ~~diversity, equity, minority and inclusion standards~~ *small business participation* in the marijuana industry;

9. Establish a Cannabis ~~Minority and Small Business Equity and Diversity~~ *Minority and Small Business* 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) (ii) provide assistance with business planning for potential marijuana establishment licensees; (iv) (iii) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) (iv) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) (v) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;

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

11. Establish and implement a plan, in coordination with the Cannabis Social Equity Minority and Small Business Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;

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

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

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

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

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

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

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

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

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

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

22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey

any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

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

24. Appoint every agent and employee required for its operations, require any or all of them to give 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, licensee, or permittee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii) disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding whether the terms of the consent agreement are confidential and (b) 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. Take appropriate disciplinary action and 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. Access during business hours any facility governed by this subtitle and any business that offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing samples to identify potential violations of this subtitle;*

*34. Issue an annual report that contains information regarding (i) license fees waived or reduced pursuant to subsection E of § 4.1-1001; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of § 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under the influence, underage consumption and youth awareness, and health risks; (iv) community engagement initiatives; (v) sales and tax revenue; (vi) programs funded by cannabis tax revenue; (vii) efforts made pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken.*

*35. Coordinate with the Department of Criminal Justice Services to ensure the exchange of any information necessary to comply with the reporting requirements of the Community Policing Reporting Database established pursuant to § 52-30.3; and*

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

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

429 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the  
430 general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle  
431 and to prevent the illegal cultivation, ~~manufacture~~ processing, transportation, distribution, sale, and  
432 testing of marijuana and marijuana products. The Board may amend or repeal such regulations. Such  
433 regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process  
434 Act (§ 2.2-4000 et seq.) and shall have the effect of law.

435 B. The Board shall promulgate regulations that:

436 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including  
437 security requirements to include lighting, physical security, and alarm requirements, provided that such  
438 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

439 2. Establish requirements for securely transporting marijuana between marijuana establishments;

440 3. Establish sanitary standards for ~~retail~~ marijuana product preparation;

441 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to Chapter  
442 14 (§ 4.1-1400 et seq.);

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

446 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and  
447 ~~retail~~ marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with  
448 the provisions of this subtitle;

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

454 8. Establish requirements for the form, content, and retention of all records and accounts by all  
455 licensees;

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

458 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana  
459 stores in the community and (ii) metrics that have similarly shown an association with negative  
460 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall  
461 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603. *Such*  
462 *regulations shall ensure that retail marijuana store licenses are, as possible and practicable, issued*  
463 *evenly among the regional enforcement districts of the Virginia Alcoholic Beverage Control Authority as*  
464 *they were in effect on July 1, 2024;*

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

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

470 13. Establish criteria by which to ~~evaluate social equity~~ *identify* license applicants; ~~which shall be an~~  
471 ~~applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i)~~  
472 ~~an applicant with that have at least 66 percent ownership by a person or persons who have been~~  
473 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former~~  
474 ~~§ 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66~~  
475 ~~percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who~~  
476 ~~has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former~~  
477 ~~§ 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66~~  
478 ~~percent ownership by a person or persons who have (i) have resided for at least three of the past five~~  
479 ~~years in a jurisdiction that is determined by the Board after utilizing census tract data made available by~~  
480 ~~the United States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an~~  
481 ~~applicant with at least 66 percent ownership by a person or persons who have resided for at least three~~  
482 ~~of the last five years in a jurisdiction determined by the Board after utilizing census tract data made~~  
483 ~~available by the United States Census Bureau to be economically distressed; or (v) an applicant with at~~  
484 ~~least 66 percent ownership by a person or persons who graduated from a historically black historically~~  
485 ~~economically disadvantaged community; (ii) have attended for at least five years a public elementary or~~  
486 ~~secondary school located in a historically economically disadvantaged community; (iii) have received a~~  
487 ~~federal Pell Grant or attended for at least two years a college or university located in the~~  
488 ~~Commonwealth at which at least 30 percent of the students, on average, are eligible for a federal Pell~~  
489 ~~Grant; (iv) are a veteran of the armed forces of the United States and were discharged or released~~  
490 ~~under conditions other than dishonorable; or (v) are an industrial hemp processor or grower that is~~



registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and completed such registration prior to January 1, 2021;

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

15. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants;

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

17. 15. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such advertising displaces the illicit market and notifies the public of the location of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404; and

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

19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its retail marijuana stores.

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:

a. Retail marijuana stores, 400 300;

b. Marijuana wholesalers transporters, 25 50;

c. Marijuana manufacturing processing facilities, 60; and

d. Marijuana cultivation facilities, 450; and

e. Marijuana testing facilities, the maximum number of licenses permitted under Board regulations.

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 2,500 square feet of retail floor space.

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.

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 14, 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 Chapter 16 (§ 4.1-1600 et seq.), 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.

**§ 4.1-611. Seed-to-sale tracking system.**

To ensure that no ~~retail~~ marijuana or ~~retail~~ marijuana products grown or processed by a marijuana establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks ~~retail~~ marijuana from either the seed or immature plant stage until the ~~retail~~ marijuana or ~~retail~~ marijuana product is sold to a customer at a retail marijuana store.

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

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

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

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. ~~After~~ *Except as otherwise provided in subsection C of § 4.1-1003, after* accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

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

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local marijuana tax revenues collected under *subsection B of § 4.1-1004* ~~and distributed pursuant to § 4.1-614~~ *4.1-1003* and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under *subsection B of § 4.1-1004* ~~4.1-1003~~ shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a marijuana establishment located in more than one locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

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

**§ 4.1-621. Certain information not to be made public.**

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to this subtitle; (ii) the purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~ marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from, refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected pursuant to this subtitle and to purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~ marijuana products filed with the Board by marijuana wholesaler licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to

any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of ~~retail~~ marijuana or ~~retail~~ marijuana products sales in the Commonwealth by marijuana wholesaler licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that such information does not identify the licensee.

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

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 retail marijuana stores 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 retail marijuana stores 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 retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to operate within the locality 60 days after the results are certified or on January 1, 2025, 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 retail marijuana stores shall be prohibited in the locality, retail marijuana stores 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 retail marijuana stores but not earlier than four years 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 part of 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.

**§ 4.1-630. Local ordinances or resolutions regulating marijuana or marijuana products.**

A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance or resolution that regulates or prohibits the cultivation, processing, possession, sale, distribution, handling, transportation, consumption, use, advertising, or dispensing of marijuana or marijuana products in the Commonwealth.

B. However, the governing body of any county, city, or town may adopt an ordinance that prohibits in its local public parks, playgrounds, public streets, or any sidewalk adjoining any public street the acts described in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty for violation thereof.

C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and land use requirements and business license requirements.

D. Except as provided in this section, all local acts, including charter provisions and ordinances of counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such inconsistency.

**§ 4.1-631. Local ordinances regulating time of sale of marijuana and marijuana products.**

The governing body of each county may adopt ordinances effective in that portion of such county not embraced within the corporate limits of any incorporated town, and the governing body of each city and town may adopt ordinances effective in such city or town, fixing hours during which marijuana and

675 marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for  
676 violations of any such ordinances, which shall be enforced as if the violations were Class 1  
677 misdemeanors with a right of appeal pursuant to § 16.1-106.

678 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the  
679 governing body adopting it and transmitted to the Board.

680 On and after the effective date of any ordinance adopted pursuant to this section, no marijuana store  
681 shall sell marijuana or marijuana products during the hours limited by the ordinance.

#### 682 CHAPTER 7.

#### 683 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

##### 684 § 4.1-700. Exemptions from licensure.

685 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or  
686 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with  
687 the provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial  
688 hemp that is registered with the Commissioner of Agriculture and Consumer Services pursuant to  
689 Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title  
690 3.2; (iii) a person that has been issued a regulated hemp product retail facility registration and is  
691 acting in accordance with the provisions of Title 3.2; (iv) a manufacturer of an edible hemp product  
692 operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person  
693 who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall  
694 be construed to (a) prevent any person described in clauses (i) through (iv) from obtaining a license  
695 pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a  
696 licensee from acquiring hemp products from an industrial hemp processor in accordance with the  
697 provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, processing,  
698 transporter, or retail licensee from operating on the licensed premises a pharmaceutical processing  
699 facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an industrial hemp processing facility in  
700 accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

##### 701 § 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.

702 The privilege of any licensee to cultivate, process, transport, sell, or test marijuana or marijuana  
703 products shall extend to such licensee and to all agents or employees of such licensee for the purpose of  
704 operating under such license. The licensee may be held liable for any violation of this subtitle or any  
705 Board regulation committed by such agents or employees in connection with their employment.

##### 706 § 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; 707 civil penalties.

708 A. Each license granted by the Board shall designate the place where the business of the licensee  
709 will be carried on. A separate license shall be required for each separate place of business.

710 B. No license shall be transferable from one location to another or from one person to another  
711 unless such transfer is conducted in accordance with Board regulations.

712 C. The Board may permit a licensee to amend the classification of an existing license without  
713 complying with the posting and publishing procedures required by § 4.1-1000 if the effect of the  
714 amendment is to reduce materially the privileges of an existing license.

715 D. Each license shall be posted in a location conspicuous to the public at the place where the  
716 licensee carries on the business for which the license is granted.

717 E. The privileges conferred by any license granted by the Board shall continue until the last day of  
718 the twelfth month next ensuing or the last day of the designated month and year of expiration, except  
719 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to  
720 grant a license or by operation of law, voluntary surrender, or order of the Board.

721 The Board may grant licenses for one year or for multiple years, not to exceed three years, based on  
722 the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be  
723 determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be  
724 refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or  
725 three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal  
726 year and shall not be altered or rescinded during such period.

727 F. The Board may permit a licensee who fails to pay:

728 1. The required license fee covering the continuation or reissuance of his license by midnight of the  
729 fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to  
730 pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made  
731 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such  
732 fee, whichever is greater; and

733 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing  
734 notice and reapplying, provided payment of the fee is made within 45 days following the 30 days  
735 specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee,  
736 whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

**§ 4.1-703. Records of licensees; inspection of records and places of business.**

A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it cultivated, purchased, processed, sold, developed, researched, tested, or shipped.

B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance with Board regulations of all purchases of marijuana products, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of marijuana products sold and the total price charged by it therefor. Except as otherwise provided in subsections C and D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation.

Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees or persons who submit marijuana or marijuana products to the marijuana testing facility.

D. The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting such place and all records, invoices, and accounts therein.

For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" means the business hours when the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records are not available for inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

**CHAPTER 8.**

**ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.**

**§ 4.1-800. Marijuana cultivation facility license.**

A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize the licensee to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; and to transfer possession of and sell marijuana to marijuana processing facilities:

1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors or outdoors not more than 150 marijuana plants.

2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors or outdoors not more than 500 marijuana plants.

3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors not more than 1,000 marijuana plants.

4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate indoors not more than 2,000 marijuana plants.

B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track the marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana testing facility, a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail marijuana store or is disposed of or destroyed.

C. The cultivation of marijuana by a marijuana cultivation facility licensee in a secure agricultural greenhouse shall be considered indoor cultivation and shall be permitted, provided that the secure agricultural greenhouse is surrounded by a privacy fence that is no less than eight feet tall and is subject to monitored ingress and egress.

D. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by the Board.

**§ 4.1-801. Marijuana processing facility license.**

A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities; and to transfer possession of marijuana and marijuana products to marijuana transporters.

B. All areas within the licensed premises of a marijuana processing facility in which marijuana and marijuana products are processed shall meet all sanitary standards specified in regulations adopted by the Board. A marijuana processing facility that processes an edible marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track the marijuana it uses in its processing from the point the marijuana is delivered or transferred to the marijuana processing facility by a marijuana transporter licensee to the point the marijuana or marijuana products produced using the marijuana are delivered or transferred to another marijuana processing facility, a marijuana testing facility, or a marijuana transporter or are disposed of or destroyed.

**§ 4.1-802. Retail marijuana store license.**

A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana transporter; and to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board.

B. Retail marijuana stores shall be operated in accordance with the following provisions:

1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds using:

a. An automated dispensing or vending machine;

b. A drive-through sales window;

c. An Internet-based sales platform; or

d. A delivery service.

3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of marijuana or an equivalent amount of marijuana products as determined by regulation promulgated by the Board during a single transaction to one person.

4. A retail marijuana store shall not:

a. Give away any marijuana or marijuana products, except as otherwise permitted by this subtitle; or

b. Sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to any person when at the time of such sale he knows or has reason to believe that the person attempting to purchase the marijuana, marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting to purchase marijuana for someone younger than 21 years of age.

5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred to the retail marijuana store to the point at which the marijuana, marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2.

C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

D. Each retail marijuana store licensee shall prominently display and make available for dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees educating them on how to discuss the potential risks of marijuana use with consumers.

F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a

permit by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) shall authorize the licensee to exercise any privileges set forth in subsection A at the place of business designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional retail establishments of the licensee. Such additional retail establishments shall be located at the five cannabis dispensing facilities for which the Board has issued a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) in the health service area in which the pharmaceutical processing facility is located.

G. All areas within the licensed premises of a retail marijuana store in which marijuana, marijuana products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary standards specified in regulations adopted by the Board.

**§ 4.1-803. Marijuana transporter license.**

A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another marijuana transporter; to transfer possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail marijuana store, or another marijuana transporter; and to transport marijuana, marijuana products, immature marijuana plants, and marijuana seeds from one licensed establishment to another.

B. All areas within the licensed premises of a marijuana transporter in which marijuana and marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana processor, marijuana transporter, retail marijuana store, or marijuana testing facility or are disposed of or destroyed.

**§ 4.1-804. Marijuana testing facility license.**

A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop, research, or test marijuana, marijuana products, and other substances.

B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana product for personal use as authorized under § 4.1-1100.

C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana testing facility from developing, researching, or testing substances that are not marijuana or marijuana products for that facility or for another person.

D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

F. A person that has an interest in a marijuana testing facility license shall not have any interest in a licensed marijuana cultivation facility, a licensed marijuana processing facility, a licensed marijuana transporter, or a licensed retail marijuana store.

G. All areas within the licensed premises of a marijuana testing facility in which marijuana or marijuana products are tested or stored shall meet all sanitary standards specified in regulations adopted by the Board.

**§ 4.1-805. Multiple licenses awarded to one person; limitations.**

A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including being an investor or serving in a management position.

B. A person may possess or hold interest in one or any combination of the following licenses pursuant to Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license, tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, marijuana processing facility license, marijuana transporter license, or retail marijuana store license. Board 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. Moreover, (i) no person shall be granted or hold interest in more than five total licenses, not including marijuana transporter licenses, issued pursuant to this subtitle and (ii) no person that has been granted or holds interest in a marijuana cultivation facility license, marijuana processing facility license,



921 marijuana transporter license, or retail marijuana store license shall be issued or hold interest in a  
922 marijuana testing facility license.

923 **§ 4.1-806. Temporary permits required in certain instances.**

924 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,  
925 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board  
926 and who has become lawfully entitled to the possession of the licensed premises to continue to operate  
927 the marijuana establishment to the same extent as the license holder for a period not to exceed 60 days  
928 or for such longer period as determined by the Board. Such permit shall be temporary and shall confer  
929 the privileges of any licenses held by the previous owner to the extent determined by the Board. Such  
930 temporary permit may be issued in advance, conditioned on the requirements in this subsection.

931 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for  
932 any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a  
933 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon  
934 the expiration of three business days after the order of the revocation has been mailed to the permittee  
935 at either his residence or the address given for the business in the permit application. No further notice  
936 shall be required.

937 **§ 4.1-807. Licensee shall maintain possession of premises.**

938 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises  
939 of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease,  
940 rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the  
941 premises. If the licensee fails to maintain possession of the licensed premises, the license shall be  
942 revoked by the Board.

943 **§ 4.1-808. Conditions under which the Board shall or may refuse to grant licenses.**

944 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting  
945 of the license would be detrimental to the interest, morals, safety, or welfare of the public or would be  
946 inconsistent with the provisions of this subtitle.

947 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

948 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant  
949 is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or  
950 if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its  
951 capital stock, or if the applicant is a limited liability company, any member-manager or any member  
952 owning 10 percent or more of the membership interest of the limited liability company:

953 a. Is not 21 years of age or older;

954 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude  
955 under the laws of any state or of the United States within seven years of the date of the application or  
956 has not completed all terms of sentencing and probation resulting from any such conviction;

957 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;

958 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have  
959 ownership interests in the business that have not been disclosed;

960 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business  
961 proposed to be licensed;

962 f. Has misrepresented a material fact in applying to the Board for a license;

963 g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or  
964 governmental agency or authority, by making or filing any report, document, or tax return required by  
965 statute or regulation that is fraudulent or contains a false representation of a material fact; or has  
966 willfully deceived or attempted to deceive the Board, or any federal, state, or local government or  
967 governmental agency or authority, by making or maintaining business records required by statute or  
968 regulation that are false or fraudulent;

969 h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the  
970 time his application for a license is pending;

971 i. Is a full-time or part-time employee of the Department of State Police or of a police department or  
972 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
973 thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the  
974 Commonwealth;

975 j. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the  
976 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.); or

977 k. Is physically unable to carry on the business for which the application for a license is filed or has  
978 been adjudicated incapacitated.

979 2. The applicant is a member or employee of the Board or is a corporation or other business entity  
980 in which a member or employee of the Board is a stockholder or has any other economic interest.  
981 Whenever any other elected or appointed official of the Commonwealth or any political subdivision  
982 thereof applies for such a license or continuance thereof, he shall state on the application the official



position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interest applies for such a license, it shall state on the application the full economic interests of each such official in such corporation or other business entity.

3. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. When the applicant is applying for a retail marijuana store license, is so located with respect to any place of religious worship; hospital; public, private, or parochial school or institution of higher education; public or private playground or other similar recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local government-operated facility that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

d. When the applicant is applying for a retail marijuana store license, is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area;

e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an existing retail marijuana store;

f. When the applicant is applying for a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which marijuana or marijuana products are to be sold; or

g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured, sold, or used.

Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or premises until the final stage of the license approval process.

4. The number of licenses existing in the locality is such that the granting of a license is detrimental to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and number of all licenses existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by a local governing body or local residents.

5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political subdivision thereof that warrants refusal by the Board to grant any license.

6. The Board is not authorized under this subtitle to grant such license.

**§ 4.1-809. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**

A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the 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.

B. The Board may refuse a hearing on any application for the granting of any retail marijuana store license, provided that such:

1. License for the applicant has been refused or revoked within a period of 12 months;

2. License for any premises has been refused or revoked at that location within a period of 12 months; or

3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this subtitle.

C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,

the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not been permitted to expire.

#### CHAPTER 9.

#### ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

##### **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business that have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product except as provided under this subtitle;

j. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises; or

o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which

such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of the United States by prices charged or otherwise.

4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed premises in the Commonwealth.

7. Any other cause authorized by this subtitle.

B. The Board shall promulgate regulations regarding suspension and revocation standards and protocols.

**§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to temporary permits granted under § 4.1-806.

**§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

The Board shall suspend or revoke any license if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local

1167 government or governmental agency or authority, by making or filing any report, document, or tax  
1168 return required by statute or regulation that is fraudulent or contains a willful or knowing false  
1169 representation of a material fact or has willfully deceived or attempted to deceive the Board, or any  
1170 federal, state, or local government or governmental agency or authority, by making or maintaining  
1171 business records required by statute or regulation that are false or fraudulent.

1172 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

1173 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or  
1174 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the  
1175 Administrative Process Act (§ 2.2-4000 et seq.).

1176 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,  
1177 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the  
1178 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or  
1179 present employee of the licensee to any law-enforcement officer, the existence of which is known by the  
1180 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this  
1181 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or  
1182 places, or copies or portions thereof, that are within the possession, custody, or control of the Board  
1183 and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle  
1184 against the licensee. In addition, any subpoena for the production of documents issued to any person at  
1185 the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the  
1186 documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1187 If the Board fails to provide for inspection or copying under this section for the licensee after a  
1188 written request, the Board shall be prohibited from introducing into evidence any items the licensee  
1189 would have lawfully been entitled to inspect or copy under this section.

1190 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be  
1191 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such  
1192 review shall extend to the entire evidential record of the proceedings provided by the Board in  
1193 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any  
1194 order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall  
1195 not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.  
1196 Neither mandamus nor injunction shall lie in any such case.

1197 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such  
1198 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in  
1199 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose  
1200 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil  
1201 penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the  
1202 date of the violation or \$5,000 for the second or subsequent violation occurring within five years  
1203 immediately preceding the date of the second or subsequent violation. However, if the violation involved  
1204 selling marijuana or marijuana products to a person prohibited from purchasing marijuana or  
1205 marijuana products or allowing consumption of marijuana or marijuana products, the Board may  
1206 impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years  
1207 immediately preceding the date of the violation and \$6,000 for a second or subsequent violation  
1208 occurring within five years immediately preceding the date of the second or subsequent violation in lieu  
1209 of such suspension or any portion thereof, or both. The Board may also impose a requirement that the  
1210 licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and  
1211 in holding the proceeding resulting in the violation in addition to any suspension or civil penalty  
1212 incurred.

1213 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation  
1214 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept  
1215 a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the  
1216 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a  
1217 hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the  
1218 proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed  
1219 privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or  
1220 any portion of the suspension as applicable, or (4) proceed to a hearing.

1221 D. The Board shall, by regulation or written order:

1222 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an  
1223 initial hearing;

1224 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of  
1225 suspension may be accepted for a first offense occurring within three years immediately preceding the  
1226 date of the violation;

1227 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil  
1228 penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its

employees marijuana seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board regulations.

**§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on hand; termination.**

A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

2. Destroyed by the Board or its designee.

B. All marijuana or marijuana products owned by or in the possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within 60 days from the date of such suspension or revocation.

C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

D. All marijuana or marijuana products owned by or remaining in the possession of any person described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1303.

#### CHAPTER 10.

#### ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

**§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

B. Such applications, including applications for renewal, shall include any information necessary for the Board to determine whether the applicant meets or continues to meet the criteria set forth in subdivision B 13 of § 4.1-606 or subsection E of § 4.1-1001, which the Board may consider, along with other relevant factors, when determining whether to grant the application.

C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase marijuana, marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle; however, the licensee shall not sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds until an inspection is completed.

D. Each applicant for a license under the provisions of this subtitle shall post a notice of his application with the Board on the front door of the building, place, or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial posting of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication.

E. The Board shall conduct a background investigation on each license applicant, which shall include a criminal history records search and may include a fingerprint-based national criminal history records search and a requirement for the provision of personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

However, the Board may waive, for good cause shown, the requirement for a criminal history

1290 records search and completed personal data form for officers, directors, nonmanaging members, or  
1291 limited partners of any applicant corporation, limited liability company, or limited partnership. In  
1292 considering criminal history record information, the Board shall not disqualify an applicant because of  
1293 a past conviction for a marijuana-related offense.

1294 F. The Board shall notify the local governing body of each license application through the town  
1295 manager, city manager, county administrator, or other designee of the locality. Local governing bodies  
1296 shall submit objections to the granting of a license within 30 days of the filing of the application.

1297 G. Each applicant shall pay the required application fee at the time the application is filed. The  
1298 license application fee shall be determined by the Board and shall be in addition to the actual cost  
1299 charged to the Department of State Police by the Federal Bureau of Investigation or the Central  
1300 Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation  
1301 or the Central Criminal Records Exchange for each criminal history records search required by the  
1302 Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and  
1303 shall not be refunded.

1304 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,  
1305 all licensees shall file and maintain with the Board a current, accurate record of the information  
1306 required by the Board pursuant to subsection A and notify the Board of any changes to such  
1307 information in accordance with Board regulations.

1308 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the  
1309 Board. Such permits shall confer upon their holders no authority to make solicitations in the  
1310 Commonwealth as otherwise provided by law.

1311 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for  
1312 applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied  
1313 by the number of months for which the permit is granted.

1314 J. The Board shall have the authority to increase state license fees. The Board shall set the amount  
1315 of such increases on the basis of the consumer price index and shall not increase fees more than once  
1316 every three years. Prior to implementing any state license fee increase, the Board shall provide notice to  
1317 all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new  
1318 fee that would be required for any license affected by the Board's proposed fee increases. Such notice  
1319 shall be provided on or before November 1 in any year in which the Board has decided to increase  
1320 state license fees, and such increases shall become effective July 1 of the following year.

1321 **§ 4.1-1001. Fees for state licenses.**

1322 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover  
1323 the costs of regulating the marijuana establishment.

1324 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be  
1325 equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the  
1326 number of months in the license period, and then increased by five percent. Such fee shall not be  
1327 refundable, except as provided in § 4.1-1002.

1328 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state  
1329 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by  
1330 this subtitle, shall be liable to state merchants' license taxation, state restaurant license taxation, and  
1331 other state taxation.

1332 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license  
1333 purchased in person from the Board if such license is available for purchase online.

1334 E. The Board may waive all or part of the initial license fee if (i) the license applicant is a service  
1335 disabled veteran, as defined in § 2.2-4310, or a small, women-owned, or minority-owned business, as  
1336 those terms are defined in § 2.2-1604, that is certified by the Department of Small Business and  
1337 Supplier Diversity pursuant to § 2.2-1606 or (ii) the licensed marijuana establishment would be located  
1338 in a historically economically disadvantaged community, as defined in § 56-576.

1339 **§ 4.1-1002. Refund of state license fee.**

1340 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any  
1341 amounts collected through erroneous assessments or collected as fees on licenses applications that are  
1342 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is  
1343 subsequently merged or changed into another license during the same license period. No refund shall be  
1344 made of any such amount, however, unless made within three years from the date of collection of the  
1345 same.

1346 B. In any case where a licensee has changed its name or form of organization during a license  
1347 period without any change being made in its ownership, and because of such change is required to pay  
1348 an additional license fee for such period, the Board shall refund to such licensee the amount of such fee  
1349 so paid in excess of the required license fee for such period.

1350 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees  
1351 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in

the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

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

A. A tax of 12.5 percent is levied on the sale in the Commonwealth of any marijuana, marijuana products, or marijuana paraphernalia. Subject to the provisions of subsection C, 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. The tax shall not apply to any sale:

1. From a marijuana establishment to another marijuana establishment.
2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).
3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.
4. Of a hemp product.

B. Any locality may by ordinance levy a 3.5 percent tax on any sale taxable under subsection A. Subject to subsection C, 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 subsection A. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle or (ii) 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 this subsection A if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b) is an annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under subsection A in its taxable measure.

If a locality imposes a tax under this subsection, such tax shall be irrevocable. If a town imposes a tax under this subsection, any tax imposed by its surrounding county under this subsection shall not apply within the limits of the town.

Any locality that enacts an ordinance pursuant to this subsection 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.

C. Any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable under subsection A shall be limited to a 1.125 percent tax which shall be distributed as follows: (i) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of § 58.1-638 and (ii) the revenue from the tax at the rate of 0.125 percent shall be distributed as provided in subdivision F 2 of § 58.1-638. No other tax shall be levied pursuant to the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable under subsection A.

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

**§ 4.1-1004. Tax returns and payments; commissions; interest.**

A. For any sale taxable under § 4.1-1003, 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 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 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



1413 former owner produces a receipt from the Authority showing payment or a certificate stating that no  
1414 taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the  
1415 purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes,  
1416 interest, and penalties due and unpaid on account of the operation of the business by any former owner.

1417 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a  
1418 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due  
1419 under § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

1420 **§ 4.1-1005. Bonds.**

1421 The Authority may, when deemed necessary and advisable to do so in order to secure the collection  
1422 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such  
1423 surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that  
1424 may become due from such person. In lieu of such bond, securities approved by the Authority may be  
1425 deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer,  
1426 and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it  
1427 becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth.  
1428 Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who  
1429 deposited the securities.

1430 **§ 4.1-1006. Refunds.**

1431 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to  
1432 § 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise  
1433 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer;  
1434 (ii) destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the  
1435 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,  
1436 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a  
1437 refund payment from the state treasury to such extent as may be proper.

1438 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable  
1439 items that have been sold by such person in such manner as to be exempt from the tax, the Authority  
1440 shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to  
1441 such extent as may be proper.

1442 C. In the event purchases are returned to the seller by the buyer after a tax imposed under  
1443 § 4.1-1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a  
1444 refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The  
1445 amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount  
1446 retained by the seller after such return of merchandise. In case the tax has not been remitted by the  
1447 seller, the seller may deduct the same in submitting his return.

1448 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**  
1449 **penalties.**

1450 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which  
1451 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud  
1452 the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for  
1453 the collection of such taxes may be begun without assessment, at any time within six years from such  
1454 date. The Authority shall not examine any person's records beyond the three-year period of limitations  
1455 unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required  
1456 by law to file a return and failed to do so.

1457 B. If any person fails to file a return as required by this section, or files a return that is false or  
1458 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such  
1459 person and assess the tax, plus any applicable interest and penalties. The Authority shall give such  
1460 person 10 days' notice requiring such person to provide any records as it may require relating to the  
1461 business of such person for the taxable period. The Authority may require such person or the agents  
1462 and employees of such person to give testimony or to answer interrogatories under oath administered by  
1463 the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any  
1464 person fails to file a required return, refuses to provide required records, or refuses to answer  
1465 interrogatories from the Authority, the Authority may make an estimated assessment based upon the  
1466 information available to it and issue a memorandum of lien under subsection C for the collection of any  
1467 taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

1468 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay  
1469 within 30 days after the due date, taking into account any extensions granted by the Authority, the  
1470 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which  
1471 the person's place of business is located or in which the person resides. If the person has no place of  
1472 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of  
1473 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties  
1474 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment



docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1008.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

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

**§ 4.1-1008. Appeals.**

Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An 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.

**§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older lawful; penalties.**

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except as otherwise provided in this section. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. With the exception of possession by a person in his residence or possession by a licensee in the course of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

**§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

~~Notwithstanding the provisions of subdivision (e) of § 18.2-248.1, a~~ A person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

1536 A person may only cultivate marijuana plants pursuant to this section at such person's main place of  
1537 residence.

1538 A violation of this subsection shall be punishable as follows:

1539 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a  
1540 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a  
1541 Class 2 misdemeanor for a third and any subsequent offense;

1542 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

1543 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1544 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment  
1545 of not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

1546 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1547 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars,  
1548 or other optical aids;

1549 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1550 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
1551 identification number, and a notation that the marijuana plant is being grown for personal use as  
1552 authorized under this section.

1553 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The  
1554 penalty for any violations of this section by an adult shall be prepayable according to the procedures in  
1555 § 16.1-69.40:2.

1556 ~~C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner~~  
1557 ~~of a property or parcel or tract of land may not intentionally or knowingly allow another person to~~  
1558 ~~manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.~~

1559 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana products;**  
1560 **conspiracy; penalties.**

1561 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or  
1562 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this  
1563 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1564 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1565 C. If two or more persons conspire together to do any act that is in violation of subsection A, and  
1566 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to  
1567 such conspiracy is guilty of a Class 6 felony.

1568 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1569 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons  
1570 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in  
1571 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the  
1572 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of  
1573 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for  
1574 goods or services.

1575 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,  
1576 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in  
1577 subsection C, he is guilty of a Class 2 misdemeanor.

1578 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1579 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that  
1580 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1581 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal**  
1582 **age; penalties.**

1583 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give,  
1584 or distribute any marijuana or marijuana products to any individual when at the time of such sale he  
1585 knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21  
1586 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a  
1587 Class 1 misdemeanor.

1588 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any  
1589 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time  
1590 of the sale does not require the individual to present bona fide evidence of legal age indicating that the  
1591 individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of  
1592 legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license  
1593 issued by any state of the United States or the District of Columbia, military identification card, United  
1594 States passport or foreign government visa, unexpired special identification card issued by the  
1595 Department of Motor Vehicles, or any other valid government-issued identification card bearing the  
1596 individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that  
1597 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.

C. No person shall be convicted of both subsections A and B for the same sale.

**§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; forfeiture; treatment and education programs and services.**

A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) 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. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, 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 juvenile 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 similar program available through a facility or program operated by or under contract with the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such substance abuse treatment or education program to which a person 18 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health and Developmental Services or (b) 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. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. 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 attempt to consume or purchase marijuana or marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-1104.

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

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

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

C. Any marijuana or marijuana products purchased in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

**§ 4.1-1113. Maintaining common nuisances; penalties.**

1659 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of  
1660 every description where marijuana or marijuana products are manufactured, processed, stored, sold,  
1661 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed  
1662 common nuisances.

1663 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common  
1664 nuisance.

1665 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1666 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not  
1667 involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon  
1668 proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or  
1669 other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving  
1670 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned  
1671 that the premises shall not be used for unlawful purposes, or in violation of the provisions of this  
1672 subtitle for a period of five years, turn the same over to its owner or lessor, or proceeding may be had  
1673 in equity as provided in § 4.1-1300.

1674 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or  
1675 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and  
1676 (ii) had the right, because of such unlawful use, to enter and repossess the property.

1677 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1678 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
1679 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its  
1680 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a  
1681 law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,  
1682 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered  
1683 a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class  
1684 5 felony.

1685 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1686 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or  
1687 any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and  
1688 decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized  
1689 by the Board to hold and conduct such hearing.

1690 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1691 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1692 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional  
1693 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile  
1694 correctional center any marijuana or marijuana products.

1695 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1696 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1697 A. No person shall separate plant resin by butane extraction or another method that utilizes a  
1698 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within  
1699 the curtilage of any residential structure.

1700 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1701 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1702 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another  
1703 in doing, or attempting to do, any of the things prohibited by this subtitle.

1704 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may  
1705 find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as  
1706 if the defendant were solely guilty of such violation.

1707 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1708 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, *except in the*  
1709 *case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be*  
1710 *proceeded against pursuant to § 16.1-260*, shall be charged by summons. A summons for a violation  
1711 under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when  
1712 such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to  
1713 this section shall be in a form the same as the uniform summons for motor vehicle law violations as  
1714 prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be  
1715 deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1716 **CHAPTER 12.**

1717 **PROHIBITED PRACTICES BY LICENSEES.**

1718 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

1719 A. No licensee or any agent or employee of such licensee shall:

1720 1. Cultivate, process, transport, sell, or test any marijuana or marijuana products of a kind other

than that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;  
 2. Sell marijuana or marijuana products to any person other than a person to whom such license or this subtitle authorizes him to sell;

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

4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this subtitle;

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

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

7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

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

**§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**

A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee shall use or consume any marijuana or marijuana products (i) on the licensed premises, except for certain sampling for quality control purposes in accordance with Board regulations or (ii) while on duty and in a position that is involved in the selling of marijuana or marijuana products to consumers.

B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

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

Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for resale or sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than a marijuana cultivation facility or marijuana processing facility.

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

**§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by licensees; penalty.**

A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one licensed place of business to another licensed place of business unless such transfer is completed by a marijuana transporter licensee.

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

**§ 4.1-1204. Illegal advertising materials; civil penalty.**

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or decorations under circumstances prohibited by this title or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as authorized in § 4.1-903.

**§ 4.1-1205. 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; (ii) deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in accordance with § 4.1-703. 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.

**§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or 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 who fails to file a return required for a tax due under § 4.1-1003 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

1782 Commonwealth of any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the  
1783 amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty  
1784 imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the  
1785 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the  
1786 actual amount.

1787 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the  
1788 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount  
1789 due within five days after the Authority gives it notice that such check was returned unpaid, the person  
1790 that tendered the check is guilty of a violation of § 18.2-182.1.

1791 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same  
1792 manner as if they were a part of the tax imposed.

1793 **§ 4.1-1300. Enjoining nuisances.**

1794 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for  
1795 the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in  
1796 § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common  
1797 nuisance.

1798 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the  
1799 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or  
1800 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such  
1801 house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an  
1802 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and  
1803 restrain the owners and tenants and their agents and employees, and any person connected with such  
1804 house, building, or other place, and all persons whomsoever from cultivating, processing, storing,  
1805 selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The  
1806 injunction shall also restrain all persons from removing any marijuana or marijuana products then on  
1807 such premises until the further order of the court. If the court is satisfied that the material allegations of  
1808 the bill are true, although the premises complained of may not then be unlawfully used, it shall continue  
1809 the injunction against such place for a period of time as the court deems proper. The injunction may be  
1810 dissolved if a proper case is shown for dissolution.

1811 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

1812 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,  
1813 all marijuana or marijuana products and materials used in their manufacture or processing, and all  
1814 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or  
1815 in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as  
1816 described in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that  
1817 such person is using, to aid such person in the unlawful cultivation, manufacture, processing,  
1818 transportation, or sale of marijuana or marijuana products, or found in the possession of such person,  
1819 or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature  
1820 whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products  
1821 are being unlawfully manufactured or processed and where such animal or vehicle is being used to aid  
1822 in the unlawful manufacture or processing, shall be deemed contraband and shall be forfeited to the  
1823 Commonwealth.

1824 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with  
1825 § 4.1-1303 for all such property except motor vehicles, which proceedings shall be in accordance with  
1826 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1827 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

1828 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and  
1829 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1830 B. Whenever any article declared contraband under the provisions of this subtitle and required to be  
1831 forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with  
1832 the enforcement of this subtitle, he shall produce the contraband article and any person in whose  
1833 possession it was found. In those cases where no person is found in possession of such articles, the  
1834 return shall so state and a copy of the warrant shall be posted on the door of the buildings or room  
1835 where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

1836 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to  
1837 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy  
1838 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the  
1839 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the  
1840 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of  
1841 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item  
1842 destroyed, and the materials remaining after such destruction. The report shall include a statement that,  
1843 from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the

item was set up for use, or had been used in the unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored, or possessed in violation of this subtitle.

At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this subtitle.

D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and shall be kept in the offices of the Board.

#### **§ 4.1-1304. Contraband marijuana or marijuana products.**

Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such marijuana or marijuana products contraband.

#### **§ 4.1-1305 Punishment for violations of title 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.

#### **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

#### **§ 4.1-1307. Previous convictions.**



In any indictment, information, or warrant charging any person with a violation of any provision of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this subtitle.

**§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

In any prosecution for violations of this subtitle, where a sealed container is labeled as containing marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana content of a container, whether sealed or not.

**§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

No action to recover the price of any marijuana or marijuana products sold in contravention of this subtitle may be maintained.

**§ 4.1-1403. Board to establish regulations for marijuana testing.**

The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or distributing marijuana or a marijuana product to a consumer or to another licensee, to submit a representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research practices, including regulations relating to testing practices, methods, and standards; quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused, and waste marijuana and marijuana products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for each contaminant.

**§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required; required destruction; random testing.**

A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and (ii) the labeling on the marijuana or marijuana product is correct.

B. Mandatory testing of marijuana and marijuana products under this section shall include testing for:

1. Residual solvents;
2. Heavy metals;
3. Microbiological contaminants;
4. Mycotoxins;
5. Pesticide chemical residue; and
6. Active ingredient analysis.

Testing shall be performed on the final form in which the marijuana or marijuana product will be consumed.

C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility, and the results of the mandatory test.

D. If the results of a mandatory test conducted pursuant to this section indicate that the tested marijuana or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall immediately quarantine, document, and properly destroy the marijuana or marijuana product and within seven days of completing the test shall notify the Board of the test results.

A marijuana testing facility is not required to notify the Board of the results of any test:

1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing is required;

2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the performance of the test that the testing is for research and development purposes only; or



3. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.

E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing is required;

2. The mandatory testing process and the test results for the marijuana or marijuana product are documented in accordance with the requirements of this subtitle and all applicable regulations adopted pursuant to this subtitle;

3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or to a consumer can be easily identified; and

4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana products whose testing samples indicate noncompliance with the health and safety standards required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can bring the marijuana or marijuana product into compliance with such required health and safety standards.

G. A licensee shall comply with all requests for samples of marijuana and marijuana products for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

**§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be labeled with the following information:

1. Identification of the type of marijuana or marijuana product;

2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and the retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered for sale, as applicable;

3. A statement of the net weight of the marijuana or marijuana product;

4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients, including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and (v) the potency of the tetrahydrocannabinol and other cannabinoid content;

5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

6. Instructions on usage, including information regarding the amount of marijuana or marijuana product that constitutes a single serving;

7. A recommended use by date or expiration date;

8. For marijuana and marijuana products, the following statement, prominently displayed in bold print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT \_\_\_\_\_ (website maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;

10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the batch from which the substance originates; and

11. Any other information required by Board regulations.

B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:

1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in

2028 child-resistant, tamper-evident, and resealable packaging that is opaque;

2029 2. Packaging for multiserving liquid marijuana products shall include an integral measurement

2030 component; and

2031 3. Packaging shall comply with any other requirements imposed by Board regulations.

2032 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in

2033 accordance with the provisions of this subtitle shall not:

2034 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be

2035 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other

2036 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or

2037 distributor of a product intended for human consumption other than the manufacturer, processor,

2038 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii)

2039 otherwise be packaged or labeled in violation of a federal trademark law or regulation;

2040 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of

2041 age;

2042 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2043 4. Be labeled or packaged using a false or misleading label;

2044 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a

2045 human, animal, vehicle, or fruit; and

2046 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by

2047 Board regulations.

2048 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**

2049 **marijuana products deemed applicable by the Authority; health and safety regulations.**

2050 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other

2051 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a

2052 consumer:

2053 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

2054 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

2055 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within

2056 the product being homogeneous throughout the product or throughout each element of the product that

2057 has a cannabinoid content;

2058 4. Shall be processed and manufactured in a manner that results in the amount of marijuana

2059 concentrate within the product being homogeneous throughout the product or throughout each element

2060 of the product that contains marijuana concentrate;

2061 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

2062 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and

2063 shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

2064 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically

2065 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to

2066 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger

2067 than 21 years of age; and

2068 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when

2069 the trademarked product is used as a component of or ingredient in the edible marijuana product and

2070 the edible marijuana product is not advertised or described for sale as containing the trademarked

2071 product.

2072 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations

2073 that it deems necessary for marijuana and marijuana products to be sold or offered for sale by a

2074 licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection

2075 shall establish mandatory health and safety standards applicable to the cultivation of marijuana, the

2076 processing and manufacture of marijuana products, and the packaging and labeling of marijuana and

2077 marijuana products sold by a licensee to a consumer. Such regulations shall address:

2078 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana

2079 products by licensees;

2080 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing

2081 and manufacture of marijuana and marijuana products; and

2082 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.

2083 **§ 4.1-1500. Definitions.**

2084 As used in this chapter, unless the context requires a different meaning:

2085 "CDFI" means a community development financial institution that provides credit and financial

2086 services for underserved communities.

2087 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

2088 "Funding" means loans made from the Fund.

2089 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

"Social equity qualified cannabis licensee" means a person or business who that meets one or more of the criteria set forth in subdivision B 13 of § 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined by the Board, a license to operate a marijuana establishment.

**§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the Fund.**

A. The Authority shall establish a Program to provide loans to qualified social equity qualified cannabis licensees for the purpose of promoting business ownership and economic growth by communities that have been disproportionately impacted by the prohibition of cannabis. The Authority shall select and work in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the Fund. The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI, the Authority shall establish monitoring and accountability mechanisms for businesses receiving funding and shall report annually the number of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

B. The Program shall:

1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of a cannabis business properly licensed pursuant to the provisions of this subtitle;

2. Provide loans for the purposes described in subsection A;

3. Provide technical assistance; and

4. Bring together community partners to sustain the Program.

**§ 4.1-1601. Certification for use of cannabis for treatment.**

A. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis products.

B. The written certification shall be on a form provided by the Authority. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A shall expire one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of

patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

E. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Authority.

F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board unless the individual's name listed on the patient's written certification. An individual may, on the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's written certification upon the patient's request. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

H. Information obtained under the patient certification or agent registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

#### **§ 4.1-1604. Criminal liability; exceptions.**

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis products in accordance with the provisions of this chapter and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this chapter and Board regulations.

#### **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless operation.**

Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above or upon the lands or waters of ~~this the~~ Commonwealth, while under the influence of intoxicating liquor or of any narcotic or marijuana or any habit-forming drugs ~~shall be~~ *is* guilty of a felony and shall be confined in a state correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both such fine and imprisonment.

Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or waters of ~~this the~~ Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger any person or property, ~~shall be~~ *is* guilty of a misdemeanor.

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

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

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

C. Nothing in this section shall require a bank or credit union to provide financial services to a

2213 *licensed marijuana establishment.*

2214 **§ 9.1-1101. Powers and duties of the Department.**

2215 A. It shall be the responsibility of the Department to provide forensic laboratory services upon  
2216 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical  
2217 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police,  
2218 sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire  
2219 department; the head of any private police department that has been designated as a criminal justice  
2220 agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in  
2221 any criminal matter. The Department shall provide such services to any federal investigatory agency  
2222 within available resources.

2223 B. The Department shall:

2224 1. Provide forensic laboratory services to all law-enforcement agencies throughout the  
2225 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of  
2226 the Commonwealth as needed;

2227 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et  
2228 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

2229 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every  
2230 six months. Only equipment found to be accurate shall be used to test the blood alcohol content of  
2231 breath; and

2232 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*  
2233 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and*  
2234 *54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method*  
2235 *and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test*  
2236 *result shall include the total available THC derived from the sum of the THC and THC-A content.*

2237 C. The Department shall have the power and duty to:

2238 1. Receive, administer, and expend all funds and other assistance available for carrying out the  
2239 purposes of this chapter;

2240 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
2241 duties and execution of its powers under this chapter including, but not limited to, contracts with the  
2242 United States, units of general local government or combinations thereof in Virginia or other states, and  
2243 with agencies and departments of the Commonwealth; and

2244 3. Perform such other acts as may be necessary or convenient for the effective performance of its  
2245 duties.

2246 D. The Director may appoint and employ a deputy director and such other personnel as are needed  
2247 to carry out the duties and responsibilities conferred by this chapter.

2248 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**  
2249 **prepayment of local ordinances.**

2250 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or  
2251 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the  
2252 traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be  
2253 accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242  
2254 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with  
2255 a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and  
2256 costs without court appearance whether or not he was involved in an accident. The prepayable fine  
2257 amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of  
2258 posted speed limits, as authorized in § 46.2-878.3.

2259 Such infractions shall not include:

2260 1. Indictable offenses;

2261 2. [Repealed.]

2262 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a  
2263 narcotic or habit-producing drug, or permitting another person, who is under the influence of  
2264 intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned  
2265 by the defendant or in his custody or control;

2266 4. Reckless driving;

2267 5. Leaving the scene of an accident;

2268 6. Driving while under suspension or revocation of driving privileges;

2269 7. Driving without being licensed to drive.

2270 8. [Repealed.]

2271 B. An appearance may be made in person or in writing by mail to a clerk of court or in person  
2272 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a  
2273 waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense

2274 charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand  
2275 trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court,  
2276 and that the record of conviction will be sent to the Commissioner of the Department of Motor  
2277 Vehicles.

2278 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall  
2279 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties  
2280 to be imposed, designating each infraction specifically. The schedule, which may from time to time be  
2281 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.  
2282 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying  
2283 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall  
2284 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance  
2285 with the provisions of this Code or any rules or regulations promulgated thereunder.

2286 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law  
2287 and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B  
2288 if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of  
2289 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be  
2290 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of  
2291 such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the  
2292 local circuit court. The schedule, which from time to time may be amended, supplemented or repealed,  
2293 shall be uniform in its application throughout the circuit. Such schedule shall not be construed or  
2294 interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for  
2295 trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall  
2296 be paid in accordance with the provisions of this Code or any rules or regulations promulgated  
2297 thereunder.

2298 **§ 16.1-260. Intake; petition; investigation.**

2299 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of  
2300 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition  
2301 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the  
2302 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,  
2303 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.  
2304 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own  
2305 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may  
2306 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement  
2307 of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated  
2308 nonattorney employees of a local department of social services may complete, sign, and file with the  
2309 clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions  
2310 for permanency planning hearings, petitions to establish paternity, motions to establish or modify  
2311 support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any  
2312 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject  
2313 of the petition is a child alleged to be in need of services, in need of supervision, or delinquent.  
2314 Complaints alleging abuse or neglect of a child shall be referred initially to the local department of  
2315 social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.  
2316 Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
2317 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is  
2318 receiving child support services or public assistance. No individual who is receiving support services or  
2319 public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an  
2320 order for support of a child. If the petitioner is seeking or receiving child support services or public  
2321 assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together  
2322 with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to  
2323 establish child support, the intake officer shall provide the petitioner information on the possible  
2324 availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS)  
2325 plan or other government-sponsored coverage through the Department of Medical Assistance Services.

2326 B. The appearance of a child before an intake officer may be by (i) personal appearance before the  
2327 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic  
2328 video and audio communication is used, an intake officer may exercise all powers conferred by law. All  
2329 communications and proceedings shall be conducted in the same manner as if the appearance were in  
2330 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served  
2331 or executed by the officer or person to whom sent, and returned in the same manner, and with the same  
2332 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as  
2333 original signatures. Any two-way electronic video and audio communication system used for an  
2334 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

2335 When the court service unit of any court receives a complaint alleging facts which may be sufficient

to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution, the performance of community service, or on a complaint alleging that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice diversion program alleging that the juvenile failed to comply with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written

2397 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
2398 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
2399 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
2400 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to  
2401 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2402 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
2403 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
2404 in need of supervision have utilized or attempted to utilize treatment and services available in the  
2405 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
2406 the intake officer determines that the parties have not attempted to utilize available treatment or services  
2407 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
2408 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,  
2409 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
2410 officer determines that the parties have made a reasonable effort to utilize available community  
2411 treatment or services may he permit the petition to be filed.

2412 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
2413 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely  
2414 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of  
2415 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the  
2416 magistrate shall be filed within 10 days of the issuance of the written notification. The written  
2417 notification shall indicate that the intake officer made a finding that no probable cause exists and shall  
2418 provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The  
2419 complainant shall provide the magistrate with a copy of the written notification upon application to the  
2420 magistrate. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to  
2421 the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile  
2422 court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is  
2423 closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1  
2424 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this  
2425 subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or  
2426 in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. If the  
2427 intake officer refuses to authorize a petition relating to an offense that if committed by an adult would  
2428 be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that  
2429 (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the  
2430 complainant shall not have a right to apply to a magistrate for a warrant.

2431 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the  
2432 intake officer shall accept and file a petition founded upon the warrant.

2433 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition  
2434 which alleges facts of an offense which would be a felony if committed by an adult.

2435 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a  
2436 report with the division superintendent of the school division in which any student who is the subject of  
2437 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which  
2438 would be a crime if committed by an adult, or that such student who is an adult has committed a crime  
2439 and is alleged to be within the jurisdiction of the court. The report shall notify the division  
2440 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

2441 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299  
2442 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2443 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

2444 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
2445 Title 18.2;

2446 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

2447 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
2448 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

2449 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ Chapter 11 (§ 18.2-247  
2450 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;

2451 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

2452 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

2453 9. Robbery pursuant to § 18.2-58;

2454 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

2455 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

2456 12. An act of violence by a mob pursuant to § 18.2-42.1;

2457 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

2458 14. A threat pursuant to § 18.2-60.



The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

**§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.**

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a violation of § 4.1-1105*, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the

2520 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with  
2521 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant  
2522 physical, psychological, or economic injury as a result of the violation of law.

2523 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**  
2524 **offenses; truancy.**

2525 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the  
2526 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar  
2527 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2;  
2528 (iii) a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or  
2529 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,  
2530 ~~18.2-248.1~~, or 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or  
2531 consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic  
2532 beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation  
2533 of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a  
2534 handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court  
2535 shall order, in addition to any other penalty that it may impose as provided by law for the offense, that  
2536 the child be denied a driver's license. In addition to any other penalty authorized by this section, if the  
2537 offense involves a violation designated under clause (i) and the child was transporting a person 17 years  
2538 of age or younger, the court shall impose the additional fine and order community service as provided in  
2539 § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial  
2540 of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17,  
2541 whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the  
2542 age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a  
2543 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of  
2544 six months unless the offense is committed by a child under the age of 16 years and three months, in  
2545 which case the child's ability to apply for a driver's license shall be delayed for a period of six months  
2546 following the date he reaches the age of 16 and three months. If the offense involves a first violation  
2547 designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment  
2548 of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until  
2549 such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation  
2550 designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the  
2551 delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a  
2552 violation designated under clause (vii), the denial of driving privileges shall be for a period of not less  
2553 than 30 days, except when the offense involves possession of a concealed handgun or a striker 12,  
2554 commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a  
2555 spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving  
2556 privileges shall be for a period of two years unless the offense is committed by a child under the age of  
2557 16 years and three months, in which event the child's ability to apply for a driver's license shall be  
2558 delayed for a period of two years following the date he reaches the age of 16 and three months.

2559 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance  
2560 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's  
2561 driving privileges for a period of not less than 30 days. If such failure to comply involves a child under  
2562 the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed  
2563 for a period of not less than 30 days following the date he reaches the age of 16 and three months.

2564 If the court finds a second or subsequent such offense, it may order the denial of a driver's license  
2565 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the  
2566 child's ability to apply for a driver's license for a period of one year following the date he reaches the  
2567 age of 16 and three months, as may be appropriate.

2568 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation  
2569 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year  
2570 or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period  
2571 of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent  
2572 such offense.

2573 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding  
2574 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be  
2575 held in the physical custody of the court during any period of license denial.

2576 C. The court shall report any order issued under this section to the Department of Motor Vehicles,  
2577 which shall preserve a record thereof. The report and the record shall include a statement as to whether  
2578 the child was represented by or waived counsel or whether the order was issued pursuant to subsection  
2579 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title  
2580 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth  
2581 and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles

unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

#### **§ 18.2-46.1. Definitions.**

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

"Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-95, 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-287.4, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101; ~~or 18.2-248; or 18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101; ~~or 18.2-248; or 18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

2643 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"  
2644 "imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.

2645 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in  
2646 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act  
2647 (§ 54.1-3400 et seq.).

2648 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit  
2649 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ *that* is not  
2650 a controlled substance subject to abuse, and:

2651 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging or  
2652 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any  
2653 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced  
2654 into commerce prior to the initial introduction into commerce of the controlled substance which it is  
2655 alleged to imitate; or

2656 2. Which by express or implied representations purports to act like a controlled substance as a  
2657 stimulant or depressant of the central nervous system and which is not commonly used or recognized for  
2658 use in that particular formulation for any purpose other than for such stimulant or depressant effect,  
2659 unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2660 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
2661 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
2662 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal  
2663 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the  
2664 packaging of the drug and its appearance in overall finished dosage form, promotional materials or  
2665 representations, oral or written, concerning the drug, and the methods of distribution of the drug and  
2666 where and how it is sold to the public.

2667 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,  
2668 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture,  
2669 or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.  
2670 "Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or  
2671 cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other  
2672 parts of plants of the genus *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by  
2673 a person registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined  
2674 in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S.  
2675 Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112;  
2676 (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a  
2677 tetrahydrocannabinol isomer, ester, ether, salt or salts of such isomer, ester, or ether that has been placed  
2678 by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et  
2679 seq.) pursuant to § 54.1-3443.

2680 E. The term "counterfeit controlled substance" means a controlled substance that, without  
2681 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to  
2682 bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness  
2683 thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer,  
2684 processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such  
2685 drug.

2686 F. E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic  
2687 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such  
2688 salts, isomers, and salts of isomers is possible within the specific chemical designation and any  
2689 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of  
2690 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and  
2691 geometric isomers.

2692 G. F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary  
2693 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of  
2694 tetrahydrocannabinolic acid.

2695 H. G. The Department of Forensic Science shall determine the proper methods for detecting the  
2696 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100  
2697 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or  
2698 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into  
2699 tetrahydrocannabinol.

2700 § 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to  
2701 manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance  
2702 prohibited; penalties.

2703 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ *is* unlawful for any  
2704 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute

a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
2. 500 grams or more of a mixture or substance containing a detectable amount of:
  - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions 2a through 2e a, b, and c;
3. 250 grams or more of a mixture or substance described in subdivisions 2a 2 a through 2d 2 d that contain cocaine base; or
4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

- a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- c. The offense did not result in death or serious bodily injury to any person;
- d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and
- e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a

detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than \$500,000.

Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be is guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall be is guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV shall be is guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which that imitates a controlled substance classified in Schedule V or Schedule VI, shall be is guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which that imitates a controlled substance classified in Schedule I, II, III, or IV shall be is guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

- 2828 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;  
 2829 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:  
 2830 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 2831 derivatives of ecgonine or their salts have been removed;  
 2832 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
 2833 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
 2834 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
 2835 referred to in subdivisions a ~~through~~ *through, b, and c*;  
 2836 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ *that* contains  
 2837 cocaine base; *or*  
 2838 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~  
 2839 ~~5.~~ 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or  
 2840 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
 2841 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and  
 2842 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such  
 2843 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have  
 2844 a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use  
 2845 violence or credible threats of violence or possess a firearm or other dangerous weapon in connection  
 2846 with the offense or induce another participant in the offense to do so; (iii) the offense did not result in  
 2847 death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or  
 2848 supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined  
 2849 in subsection I of ~~this section~~; and (v) not later than the time of the sentencing hearing, the person has  
 2850 truthfully provided to the Commonwealth all information and evidence the person has concerning the  
 2851 offense or offenses that were part of the same course of conduct or of a common scheme or plan, but  
 2852 the fact that the person has no relevant or useful other information to provide or that the Commonwealth  
 2853 already is aware of the information shall not preclude a determination by the court that the defendant  
 2854 has complied with this requirement.  
 2855 H1. Any person who was the principal or one of several principal administrators, organizers or  
 2856 leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at  
 2857 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from  
 2858 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or  
 2859 the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the  
 2860 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or  
 2861 distribute the following during any 12-month period of its existence:  
 2862 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a  
 2863 detectable amount of heroin;  
 2864 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable  
 2865 amount of:  
 2866 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 2867 derivatives of ecgonine or their salts have been removed;  
 2868 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
 2869 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
 2870 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances  
 2871 referred to in subdivisions a ~~through~~ *through, b, and c*;  
 2872 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in  
 2873 subdivision 2 ~~which~~ *that* contains cocaine base; *or*  
 2874 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~  
 2875 ~~detectable amount of marijuana; or~~  
 2876 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its  
 2877 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a  
 2878 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.  
 2879 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
 2880 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.  
 2881 H2. Any person who was the principal or one of several principal administrators, organizers or  
 2882 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross  
 2883 receipts during any 12-month period of its existence from the manufacture, importation, or distribution  
 2884 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of  
 2885 isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give,  
 2886 distribute or possess with the intent to manufacture, sell, give or distribute the following during any  
 2887 12-month period of its existence:  
 2888 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;



2889 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:  
2890 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
2891 derivatives of ecgonine or their salts have been removed;  
2892 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
2893 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
2894 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
2895 referred to in subdivisions a ~~through, b, and c~~;  
2896 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains  
2897 cocaine base; *or*  
2898 4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; *or*  
2899 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
2900 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,  
2901 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1  
2902 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such  
2903 punishment shall be made to run consecutively with any other sentence. However, the court may impose  
2904 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated  
2905 with law-enforcement authorities.

2906 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he  
2907 violates any provision of this section, the punishment for which is a felony and either (ii) such violation  
2908 is a part of a continuing series of violations of this section which are undertaken by such person in  
2909 concert with five or more other persons with respect to whom such person occupies a position of  
2910 organizer, a supervisory position, or any other position of management, and from which such person  
2911 obtains substantial income or resources or (iii) such violation is committed, with respect to  
2912 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the  
2913 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

2914 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any  
2915 two or more different substances listed below with the intent to manufacture methamphetamine,  
2916 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,  
2917 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture  
2918 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,  
2919 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium  
2920 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or  
2921 2-propanone.

2922 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product  
2923 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or  
2924 salts of optical isomers.

2925 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**  
2926 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to  
2927 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of  
2928 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II  
2929 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~  
2930 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.  
2931 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years  
2932 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not  
2933 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a  
2934 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any  
2935 other sentence.

2936 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**  
2937 **substance abuse screening, assessment treatment and education programs or services; drug tests;**  
2938 **costs and fees; violations; discharge.**  
2939 Whenever any person who has not previously been convicted of any criminal offense under this  
2940 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or  
2941 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for  
2942 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of  
2943 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts  
2944 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the  
2945 consent of the accused, may defer further proceedings and place him on probation upon terms and  
2946 conditions. If the court defers further proceedings, at that time the court shall determine whether the  
2947 clerk of court has been provided with the fingerprint identification information or fingerprints of the  
2948 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the  
2949 fingerprints and photograph of the person be taken by a law-enforcement officer.

2950 As a term or condition, the court shall require the accused to undergo a substance abuse assessment

pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to § ~~4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention in accordance with this subdivision;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, or to a person who renders emergency care or assistance to an individual experiencing an overdose while another person seeks or obtains

3012 emergency medical attention during the execution of a search warrant or during the conduct of a lawful  
3013 search or a lawful arrest.

3014 D. This section does not establish protection from arrest or prosecution for any individual or offense  
3015 other than those listed in subsection B.

3016 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
3017 determined that the person arrested was immune from prosecution under this section.

3018 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

3019 No school nurse employed by a local school board, person employed by a local health department  
3020 who is assigned to the public school pursuant to an agreement between the local health department and  
3021 the school board, or other person employed by or contracted with a local school board to deliver  
3022 health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
3023 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for  
3024 storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local  
3025 school board, to a student who has been issued a valid written certification for the use of cannabis oil in  
3026 accordance with § 4.1-1601.

3027 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**  
3028 **facilities; hospice and hospice facilities; assisted living facilities.**

3029 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
3030 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted  
3031 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the  
3032 possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering  
3033 cannabis oil to a patient or resident who has been issued a valid written certification for the use of  
3034 cannabis oil in accordance with § 4.1-1601.

3035 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**  
3036 **Department of Agriculture and Consumer Services, Department of Law employees.**

3037 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
3038 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,  
3039 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of  
3040 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
3041 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or  
3042 industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with  
3043 regulations promulgated by the Board of ~~Pharmacy~~ and the Board of Agriculture and Consumer  
3044 Services.

3045 B. No employee of the Department of Agriculture and Consumer Services or of the Department of  
3046 Law shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247*, 18.2-248,  
3047 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any  
3048 substance containing tetrahydrocannabinol when possession of industrial hemp or any substance  
3049 containing tetrahydrocannabinol is necessary in the performance of his duties.

3050 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,**  
3051 **and treatment or education.**

3052 The trial judge or court trying the case of any person found guilty of a criminal violation of any law  
3053 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious  
3054 chemical substances and like substances shall condition any suspended sentence by first requiring such  
3055 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such  
3056 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing  
3057 shall be conducted by the supervising probation agency or by personnel of any program or agency  
3058 approved by the supervising probation agency. The cost of such testing ordered by the court shall be  
3059 paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court  
3060 shall order the person, as a condition of any suspended sentence, to undergo such treatment or education  
3061 for substance abuse, if available, as the judge or court deems appropriate based upon consideration of  
3062 the substance abuse assessment. The treatment or education shall be provided by a program or agency  
3063 licensed by the Department of Behavioral Health and Developmental Services, by a similar program or  
3064 services available through the Department of Corrections if the court imposes a sentence of one year or  
3065 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available  
3066 through a local or regional jail, a local community-based probation services agency established pursuant  
3067 to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

3068 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3069 A. Whenever any person who has not previously been convicted of any criminal offense under this  
3070 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,  
3071 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for  
3072 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law  
3073 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious

chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the criminal offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

**§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III, or IV of marijuana to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III, or IV of marijuana. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II controlled substance or one ounce or more of marijuana shall be a mandatory minimum sentence. Two years of the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.

B. It shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled substance. Any person violating this provision shall be guilty of a Class 6 felony.

**§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**

**3135 administering controlled substances to minors; penalty.**

**3136** It ~~shall be~~ *is* a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale  
**3137** to a minor any book, pamphlet, periodical, or other printed matter ~~which~~ *that* he knows advertises for  
**3138** sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,  
**3139** administering, preparing, or growing ~~marijuana~~ *or* a controlled substance.

**3140 § 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**  
**3141 penalty.**

**3142** A. It ~~shall be~~ *is* unlawful for any person to manufacture, sell or distribute or possess with intent to  
**3143** sell, give, or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

**3144** 1. Upon the property, including buildings and grounds, of any public or private elementary or  
**3145** secondary school, any institution of higher education, or any clearly marked licensed child day center as  
**3146** defined in § 22.1-289.02;

**3147** 2. Upon public property or any property open to public use within 1,000 feet of the property  
**3148** described in subdivision 1;

**3149** 3. On any school bus as defined in § 46.2-100;

**3150** 4. Upon a designated school bus stop, or upon either public property or any property open to public  
**3151** use which is within 1,000 feet of such school bus stop, during the time when school children are  
**3152** waiting to be picked up and transported to or are being dropped off from school or a school-sponsored  
**3153** activity;

**3154** 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated  
**3155** recreation or community center facility or any public library; or

**3156** 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or  
**3157** property open to public use within 1,000 feet of such ~~an institution~~ *facility*. It is a violation of the  
**3158** provisions of this section if the person possessed the controlled substance; *or* imitation controlled  
**3159** substance; ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the  
**3160** person intended to sell, give, or distribute the controlled substance; *or* imitation controlled substance; ~~or~~  
**3161** ~~marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

**3162** B. Violation of this section shall constitute a separate and distinct felony. Any person violating the  
**3163** provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor  
**3164** more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder  
**3165** for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control  
**3166** Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory  
**3167** minimum term of imprisonment of one year to be served consecutively with any other sentence.  
**3168** However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an  
**3169** accommodation to another individual and not with intent to profit thereby from any consideration  
**3170** received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or~~  
**3171** ~~marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is  
**3172** guilty of a Class 1 misdemeanor.

**3173** C. If a person commits an act violating the provisions of this section, and the same act also violates  
**3174** another provision of law that provides for penalties greater than those provided for by this section, then  
**3175** nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of  
**3176** law or the imposition of any penalties provided for thereby.

**3177 § 18.2-258. Certain premises deemed common nuisance; penalty.**

**3178** Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
**3179** dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the  
**3180** knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or  
**3181** tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or~~  
**3182** ~~marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,  
**3183** manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,  
**3184** manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.  
**3185** Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant  
**3186** who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1  
**3187** misdemeanor and, for a second or subsequent offense, a Class 6 felony.

**3188 § 18.2-258.02. Maintaining a fortified drug house; penalty.**

**3189** Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
**3190** dwelling house, apartment or building or structure of any kind ~~which~~ *that* is (i) substantially altered  
**3191** from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry  
**3192** by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or  
**3193** distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be  
**3194** considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty  
**3195** of a Class 5 felony.

**3196 § 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,**

**deceit or forgery.**

A. It shall be is unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It shall be is unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

C. It shall be is unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to another person.

D. It shall be is unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other authorized person.

E. It shall be is unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It shall be is unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein shall be is guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person is determined by the court to be indigent.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency.

Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find the defendant guilty of a Class 1 misdemeanor.

**§ 18.2-265.1. Definition.**

As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or

3258 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a  
3259 controlled substance can be derived;

3260 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,  
3261 processing, or preparing ~~marijuana~~ or controlled substances;

3262 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~  
3263 or any species of plant ~~which that~~ is a controlled substance;

3264 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength  
3265 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to  
3266 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3267 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or  
3268 controlled substances;

3269 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or  
3270 designed for use in cutting controlled substances;

3271 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from,~~  
3272 ~~or in otherwise cleaning or refining, marijuana;~~

3273 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in  
3274 compounding controlled substances;

3275 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in  
3276 packaging small quantities of ~~marijuana~~ or controlled substances;

3277 ~~10. 9. Containers and other objects intended for use or designed for use in storing or concealing~~  
3278 ~~marijuana~~ or controlled substances;

3279 ~~11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in~~  
3280 ~~parenterally injecting controlled substances into the human body;~~

3281 ~~12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing~~  
3282 ~~marijuana, cocaine, hashish, or hashish oil into the human body, such as:~~

3283 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
3284 screens, ~~hashish heads~~, or punctured metal bowls;

3285 b. Water pipes;

3286 c. Carburetion tubes and devices;

3287 d. Smoking and carburetion masks;

3288 e. Roach clips, meaning objects used to hold burning material, such as a ~~marijuana cigarette~~, that has  
3289 become too small or too short to be held in the hand;

3290 f. Miniature cocaine spoons, and cocaine vials;

3291 g. Chamber pipes;

3292 h. Carburetor pipes;

3293 i. Electric pipes;

3294 j. Air-driven pipes;

3295 k. Chillums;

3296 l. Bongs;

3297 m. Ice pipes or chillers.

3298 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3299 In determining whether an object is drug paraphernalia, the court may consider, in addition to all  
3300 other relevant evidence, the following:

3301 1. Constitutionally admissible statements by the accused concerning the use of the object;

3302 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually  
3303 known to the accused;

3304 3. Instructions, oral or written, provided with the object concerning its use;

3305 4. Descriptive materials accompanying the object ~~which that~~ explain or depict its use;

3306 5. National and local advertising within the actual knowledge of the accused concerning its use;

3307 6. The manner in which the object is displayed for sale;

3308 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a  
3309 licensed distributor or dealer of tobacco products;

3310 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the  
3311 business enterprise;

3312 9. The existence and scope of legitimate uses for the object in the community;

3313 10. Expert testimony concerning its use or the purpose for which it was designed; *and*

3314 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should  
3315 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone  
3316 in control of the object, as to a direct violation of this article shall not prevent a finding that the object  
3317 is intended for use or designed for use as drug paraphernalia.

3318 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3319 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under



circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

**§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4 felony.

**§ 18.2-308.012. Prohibited conduct.**

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

**§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

**§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

3381 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
3382 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
3383 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged  
3384 in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a  
3385 Class 1 misdemeanor.

3386 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a  
3387 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement  
3388 officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of  
3389 justice in any court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3);~~  
3390 ~~(b) or (c) of § 18.2-248.1, or § 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to~~  
3391 ~~violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.~~

3392 D. Any person who knowingly and willfully makes any materially false statement or representation  
3393 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the  
3394 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3395 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from  
3396 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of  
3397 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a  
3398 law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer  
3399 communicates to the person that he is under arrest and (a) the officer has the legal authority and the  
3400 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives  
3401 such communication knows or should know that he is not free to leave.

3402 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3403 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
3404 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
3405 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
3406 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which that~~ is a controlled  
3407 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) ~~of Title 54.1 or~~  
3408 ~~marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or  
3409 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,  
3410 ammunitions, or explosives of any nature is guilty of a Class 3 felony.

3411 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3412 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
3413 **authorizing interception of communications.**

3414 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
3415 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a  
3416 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to  
3417 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral  
3418 communications by the Department of State Police, when such interception may reasonably be expected  
3419 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,  
3420 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)  
3421 of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.),  
3422 Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any  
3423 felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any  
3424 conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney  
3425 General may apply for authorization for the observation or monitoring of the interception by a police  
3426 department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States.  
3427 Such application shall be made, and such order may be granted, in conformity with the provisions of  
3428 § 19.2-68.

3429 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3430 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction  
3431 shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to  
3432 believe that an offense was committed, is being committed, or will be committed or the person or  
3433 persons whose communications are to be intercepted live, work, subscribe to a wire or electronic  
3434 communication system, maintain an address or a post office box, or are making the communication  
3435 within the territorial jurisdiction of the court.

3436 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the  
3437 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an  
3438 offense was committed, is being committed, or will be committed or the physical location of the oral  
3439 communication to be intercepted is within the territorial jurisdiction of the court.

3440 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of  
3441 a wire or electronic communication, such communication shall be deemed to be intercepted in the  
3442 jurisdiction where the order is entered, regardless of the physical location or the method by which the

communication is captured or routed to the monitoring location.

**§ 19.2-81. Arrest without warrant authorized in certain cases.**

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;
8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of

3504 the person who observed the alleged offense. The arresting officer may issue a summons to any person  
 3505 arrested under this section for a misdemeanor violation involving shoplifting.

3506 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3507 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in  
 3508 § 19.2-81, persons for crimes involving:

- 3509 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3510 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3511 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1;
- 3512 and
- 3513 (d) 4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare,
- 3514 or security of the population of a correctional institution.

3515 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3516 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
 3517 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who  
 3518 is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary  
 3519 teacher or any other employee in any local school division in the Commonwealth for a felony or a Class  
 3520 1 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the  
 3521 division safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in  
 3522 which such person is employed as soon as practicable but no later than 48 hours after such arrest. The  
 3523 contents of the report required pursuant to this subsection shall be utilized by the local school division  
 3524 solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

3525 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i)  
 3526 via certified mail, return receipt requested, to the mailing address identified by the division  
 3527 superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and  
 3528 email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any  
 3529 certified mail return receipt shall be retained in the case file.

3530 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to  
 3531 Virginia Employment Commission records, each arresting official shall request in writing that the  
 3532 Virginia Employment Commission provide the name of the current employer of each person arrested for  
 3533 an offense set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to  
 3534 subsection A.

3535 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
 3536 officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as  
 3537 practicable, with the division superintendent of the school division in which the student is enrolled upon  
 3538 arresting a person who is known or discovered by the arresting official to be a student age 18 or older  
 3539 in any local school division in the Commonwealth for:

- 3540 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
- 3541 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 3542 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 3543 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
- 3544 Title 18.2;
- 3545 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 3546 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
- 3547 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 3548 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (§ 18.2-247
- 3549 ~~4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;~~
- 3550 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 3551 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 3552 9. Robbery pursuant to § 18.2-58;
- 3553 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 3554 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
- 3555 12. An act of violence by a mob pursuant to § 18.2-42.1; or
- 3556 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3557 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3558 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1  
 3559 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement  
 3560 officer shall be permitted to testify as to the results of field tests that have been approved by the  
 3561 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative  
 3562 Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue  
 3563 in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in §  
 3564 §§ 4.1-600 and 18.2-247.

3565 B. In any trial for a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer

shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § ~~4.1-1105.1~~ *4.1-1104 or 4.1-1105*, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § ~~18.2-247~~ *9.1-1101* and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

**§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

**§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of *Chapter 11* (§ ~~4.1-1100 et seq.~~) of *Title 4.1* or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with intent to distribute marijuana~~ in violation of subdivisions (a)(2), (a)(3) and (e) of § ~~18.2-248.1~~ § *4.1-1103*, or (c) a drug-related offense in violation of § *4.1-1117* or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of § ~~18.2-248.1~~ *4.1-1103* or for a controlled substance or marijuana in violation of § *4.1-1117* or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.).

**§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ *4.1-1100 et seq.*) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

3627 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State  
3628 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture  
3629 of any such substance or paraphernalia to the Department of Forensic Science, the Department of State  
3630 Police, or to such police department or sheriff's office for research and training purposes and for  
3631 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement  
3632 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3633 2. In the event no application is made under subdivision 1, the court shall order the destruction of all  
3634 such substances or paraphernalia, which order shall state the existence and nature of the substance or  
3635 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the  
3636 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.  
3637 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be  
3638 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need  
3639 for the property and an ability to put the property to a lawful and publicly beneficial use. A return under  
3640 oath, reporting the time, place and manner of destruction shall be made to the court by the officer to  
3641 whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any  
3642 criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter,  
3643 be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is  
3644 given or otherwise comes into possession of any such substances or paraphernalia that are not evidence  
3645 in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may,  
3646 with the written consent of the appropriate attorney for the Commonwealth, order destruction of same;  
3647 provided that a statement under oath, reporting a description of the substances and paraphernalia  
3648 destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer  
3649 by the officer to whom the order is directed.

3650 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*  
3651 (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7 (*§ 18.2-247 et seq.*) of Title 18.2 shall be disposed of as  
3652 provided by this section until all rights of appeal have been exhausted, except as provided in  
3653 § 19.2-386.24.

3654 C. The amount of any specific controlled substance, or imitation controlled substance, retained by  
3655 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five  
3656 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled  
3657 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall  
3658 not result in the requesting agency's exceeding the limits allowed by this subsection.

3659 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or  
3660 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an  
3661 inventory of such substance on a monthly basis, which shall include a description and weight of the  
3662 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for  
3663 research and training purposes. A written report outlining the details of the inventory shall be made to  
3664 the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and  
3665 the agency shall detail the substances that were used for research and training pursuant to a court order  
3666 in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court  
3667 along with a statement prepared under oath, reporting a description of the substance destroyed, and the  
3668 time, place, and manner of destruction.

3669 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3670 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection  
3671 with any prosecution or investigation under *Chapter 11* (*§ 4.1-1100 et seq.*) of *Title 4.1* or Chapter 7  
3672 (*§ 18.2-247 et seq.*) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the  
3673 substance randomly selected from the seized substance for representative purposes as evidence and  
3674 destroy the remainder of the seized substance.

3675 Before any destruction is carried out under this section, the law-enforcement agency shall cause the  
3676 material seized to be photographed with identification case numbers or other means of identification and  
3677 shall prepare a report identifying the seized material. It shall also notify the accused, or other interested  
3678 party, if known, or his attorney, at least five days in advance that the photography will take place and  
3679 that they may be present. Prior to any destruction under this section, the law-enforcement agency shall  
3680 also notify the accused or other interested party, if known, and his attorney at least seven days prior to  
3681 the destruction of the time and place the destruction will occur. Any notice required under the  
3682 provisions of this section shall be by first-class mail to the last known address of the person required to  
3683 be notified. In addition to the substance retained for representative purposes as evidence, all photographs  
3684 and records made under this section and properly identified shall be admissible in any court proceeding  
3685 for any purposes for which the seized substance itself would have been admissible.

3686 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
3687 **substances, etc.**

3688 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to

take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2. The court in its order may make provision for ensuring integrity of these items until further order of the court.

**§ 19.2-389. Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of ~~Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible



3750 with the nature of the employment under consideration;

3751 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
3752 travel, including, but not limited to, issuing visas and passports;

3753 11. A person requesting a copy of his own criminal history record information as defined in  
3754 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
3755 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
3756 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
3757 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
3758 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
3759 Solvers or Crime Line program as defined in § 15.2-1713.1;

3760 12. Administrators and board presidents of and applicants for licensure or registration as a child  
3761 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
3762 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
3763 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing  
3764 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data  
3765 shall not be further disseminated by the facility or agency to any party other than the data subject, the  
3766 Commissioner of Social Services' representative or a federal or state authority or court as may be  
3767 required to comply with an express requirement of law for such further dissemination; however, nothing  
3768 in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative  
3769 from issuing written certifications regarding the results of a background check that was conducted before  
3770 July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3771 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
3772 offered or who accept public school employment and those current school board employees for whom a  
3773 report of arrest has been made pursuant to § 19.2-83.1;

3774 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
3775 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
3776 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth  
3777 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3778 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations  
3779 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
3780 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to  
3781 the limitations set out in subsection E;

3782 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
3783 investigations of applicants for compensated employment in licensed assisted living facilities and  
3784 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3785 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth  
3786 in § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth*  
3787 *in § 4.1-622;*

3788 18. The State Board of Elections and authorized officers and employees thereof and general registrars  
3789 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to  
3790 voter registration, limited to any record of felony convictions;

3791 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
3792 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
3793 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,  
3794 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
3795 evaluation, treatment, or discharge planning;

3796 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
3797 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders  
3798 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3799 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
3800 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
3801 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
3802 services;

3803 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
3804 Department for the purpose of determining an individual's fitness for employment pursuant to  
3805 departmental instructions;

3806 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
3807 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
3808 records information on behalf of such governing boards or administrators pursuant to a written  
3809 agreement with the Department of State Police;

3810 24. Public institutions of higher education and nonprofit private institutions of higher education for  
3811 the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under

Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

47. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children; and

48. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.

Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and 551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.**

A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the

3996 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

3997 B. An employer or educational institution shall not, in any application, interview, or otherwise,  
3998 require an applicant for employment or admission to disclose information concerning any arrest, criminal  
3999 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction  
4000 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any  
4001 question concerning any arrest, criminal charge, or conviction, include a reference to or information  
4002 concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal  
4003 charge, or conviction is not open for public inspection pursuant to subsection A.

4004 C. Agencies, officials, and employees of the state and local governments shall not, in any  
4005 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
4006 governmental service to disclose information concerning any arrest, criminal charge, or conviction  
4007 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
4008 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
4009 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
4010 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
4011 not open for public inspection pursuant to subsection A. Such an application may not be denied solely  
4012 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or  
4013 conviction.

4014 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each  
4015 violation.

4016 § 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and  
4017 551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) **Marijuana possession; limits on  
4018 dissemination of criminal history record information; prohibited practices by employers,  
4019 educational institutions, and state and local governments; penalty.**

4020 A. Criminal history record information contained in the Central Criminal Records Exchange,  
4021 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation  
4022 of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§  
4023 *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251,  
4024 shall not be open for public inspection or otherwise disclosed, provided that such records may be  
4025 disseminated and used for the following purposes: (i) to make the determination as provided in  
4026 § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the  
4027 fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal  
4028 Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the  
4029 State Police or a police department or sheriff's office that is a part of or administered by the  
4030 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time  
4031 or part-time employment with, or to be a volunteer with, the State Police or a police department or  
4032 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
4033 thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person  
4034 who applies to be a volunteer with or an employee of an emergency medical services agency as  
4035 provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic  
4036 Science for the purpose of screening any person for full-time or part-time employment with the  
4037 Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee  
4038 who shall be an individual employed as a public safety official of the locality, that has adopted an  
4039 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who  
4040 applies to be a volunteer with or an employee of an emergency medical services agency as provided in  
4041 § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any  
4042 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the  
4043 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to  
4044 any employer or prospective employer or its designee where federal law requires the employer to inquire  
4045 about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee  
4046 where the position that a person is applying for, or where access to the premises in or upon which any  
4047 part of the duties of such position is performed or is to be performed, is subject to any requirement  
4048 imposed in the interest of the national security of the United States under any security program in effect  
4049 pursuant to or administered under any contract with, or statute or regulation of, the United States or any  
4050 Executive Order of the President; (xi) to any person authorized to engage in the collection of court  
4051 costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs,  
4052 fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article  
4053 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of  
4054 Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the  
4055 Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for  
4056 Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for  
4057 full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the

Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

B. Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. The provisions of subsection B shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning

4119 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or  
4120 conviction is not open for public inspection pursuant to subsection A. Such an application may not be  
4121 denied solely because of the applicant's refusal to disclose information concerning any such arrest,  
4122 criminal charge, or conviction.

4123 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior  
4124 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such  
4125 subsections, such application shall include, or such entity or person shall provide, a notice to the  
4126 applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to  
4127 subsection A does not have to be disclosed in the application. Such notice need not be included on any  
4128 application for one or more of the purposes set forth in subsection C.

4129 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or  
4130 conviction that is not open for public inspection pursuant to subsection A or any information from such  
4131 records among law-enforcement officers and attorneys when such disclosures are made by such officers  
4132 or attorneys while engaged in the performance of their duties for purposes solely relating to the  
4133 disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the  
4134 Commonwealth when related to the prosecution of a separate crime.

4135 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for  
4136 each violation.

4137 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**  
4138 **employees or volunteers providing care to children or the elderly or disabled.**

4139 A. For purposes of this section:

4140 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
4141 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony  
4142 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,  
4143 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or  
4144 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6,  
4145 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1,  
4146 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1;  
4147 any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1,  
4148 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1,  
4149 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86,  
4150 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282,  
4151 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or  
4152 18.2-314; any felony violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355,  
4153 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of  
4154 § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6,  
4155 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any  
4156 felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423,  
4157 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1,  
4158 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any  
4159 substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89,  
4160 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of  
4161 another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01,  
4162 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,  
4163 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of  
4164 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the  
4165 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement  
4166 to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including  
4167 any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1  
4168 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's  
4169 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to  
4170 § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for  
4171 which registration in a sex offender and crimes against minors registry is required under the laws of the  
4172 jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii),  
4173 (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4174 "Barrier crime information" means the following facts concerning a person who has been arrested for,  
4175 or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the  
4176 time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief  
4177 description of the barrier crime or offenses for which the person has been arrested or has been  
4178 convicted, the disposition of the charge, and any other information that may be useful in identifying  
4179 persons arrested for or convicted of a barrier crime.

4180 "Care" means the provision of care, treatment, education, training, instruction, supervision, or



recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

**§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of former possession of marijuana offenses.**

A. If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the

4242 manner set forth in § 19.2-392.7, subject to the provisions of subsections B and C: § 18.2-96, 18.2-103,  
4243 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; or § 18.2-415.

4244 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be  
4245 ordered to be automatically sealed if seven years have passed since the date of the conviction and the  
4246 person convicted of such offense has not been convicted of violating any law of the Commonwealth that  
4247 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any  
4248 other state, the District of Columbia, or the United States or any territory thereof, excluding traffic  
4249 infractions under Title 46.2, during that time period.

4250 C. No conviction listed under subsection a shall be automatically sealed if, on the date of the  
4251 conviction, the person was convicted of another offense that is not eligible for automatic sealing under  
4252 subsection A.

4253 D. If a person was charged with any criminal offense and such offense concluded with any final  
4254 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically  
4255 sealed in the manner set forth in § 19.2-392.7.

4256 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit  
4257 court pursuant to the provisions of § 19.2-392.12.

4258 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**  
4259 **products, and gambling.**

4260 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed  
4261 by the Board of Education.

4262 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,  
4263 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia  
4264 Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide  
4265 educational materials to the Department of Education. The Department of Education shall review and  
4266 shall distribute such materials as are approved to the public schools.

4267 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall  
4268 distribute to each local school division educational materials concerning the health and safety risks of  
4269 using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are  
4270 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,  
4271 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2,  
4272 shall be provided in each public elementary and secondary school in the Commonwealth, consistent with  
4273 such educational materials.

4274 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the  
4275 public schools as prescribed by the Board.

4276 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4277 A. School boards shall expel from school attendance any student whom such school board has  
4278 determined, in accordance with the procedures set forth in this article, to have brought a controlled  
4279 substance, *or* imitation controlled substance, ~~or marijuana~~ *as those terms are* defined in § 18.2-247 onto  
4280 school property or to a school-sponsored activity. A school administrator, pursuant to school board  
4281 policy, or a school board may, however, determine, based on the facts of a particular situation, that  
4282 special circumstances exist and no disciplinary action or another disciplinary action or another term of  
4283 expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his  
4284 designee to conduct a preliminary review of such cases to determine whether a disciplinary action other  
4285 than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another  
4286 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance  
4287 with the procedures set forth in this article. Nothing in this section shall be construed to require a  
4288 student's expulsion regardless of the facts of the particular situation.

4289 B. Each school board shall revise its standards of student conduct to incorporate the requirements of  
4290 this section no later than three months after the date on which this act becomes effective.

4291 **§ 23.1-1301. Governing boards; powers.**

4292 A. The board of visitors of each baccalaureate public institution of higher education or its designee  
4293 may:

- 4294 1. Make regulations and policies concerning the institution;
- 4295 2. Manage the funds of the institution and approve an annual budget;
- 4296 3. Appoint the chief executive officer of the institution;
- 4297 4. Appoint professors and fix their salaries; and
- 4298 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4299 B. The governing board of each public institution of higher education or its designee may:

- 4300 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
4301 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
4302 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms  
4303 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and

administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned by the institution;

3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;

4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through electronic communication means pursuant to § 2.2-3708.3; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.

**§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

**§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to obtain alcoholic beverages; penalties.**

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or

4365 government; United States Armed Forces identification card; United States passport or foreign  
4366 government visa; Virginia Department of Motor Vehicles special identification card; official  
4367 identification issued by any other federal, state or foreign government agency; or official student  
4368 identification card of an institution of higher education to obtain alcoholic beverages ~~shall be or~~  
4369 *marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the  
4370 court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a  
4371 period of not less than 30 days nor more than one year.

4372 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4373 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to  
4374 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia  
4375 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such  
4376 petition shall be the operator of the establishment has allowed it to become a meeting place for persons  
4377 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent  
4378 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the  
4379 chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall,  
4380 upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without  
4381 bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of  
4382 the court that the threat to public safety complained of exists and is likely to continue if such injunction  
4383 is not granted. The court hearing on the petition shall be held within 10 days of service upon the  
4384 respondent. The respondent shall be served with notice of the time and place of the hearing and copies  
4385 of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued  
4386 by the court shall be dissolved in the event the court later finds that the threat to public safety that is  
4387 the basis of the injunction has been abated by reason of a change of ownership, management, or  
4388 business operations at the establishment, or other change in circumstance.

4389 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*  
4390 shall be given notice of any hearing under this section. In the event an injunction is granted, the  
4391 Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate  
4392 an investigation into the activities at the establishment complained of and conduct an administrative  
4393 hearing. After the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*  
4394 *Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage  
4395 Control Authority *or the Virginia Cannabis Control Authority*, regardless of disposition, any injunction  
4396 issued hereunder shall be null, without further action by the complainant, respondent, or the court.

4397 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4398 This section shall apply to any person who is not a qualified voter because of a felony conviction,  
4399 who seeks to have his right to register to vote restored and become eligible to register to vote, and who  
4400 meets the conditions and requirements set out in this section.

4401 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in  
4402 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to  
4403 § 4.1-1101, *4.1-1114*, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii)  
4404 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in  
4405 which he was convicted of a felony, or the circuit court of the county or city in which he presently  
4406 resides, for restoration of his civil right to be eligible to register to vote through the process set out in  
4407 this section. On such petition, the court may approve the petition for restoration to the person of his  
4408 right if the court is satisfied from the evidence presented that the petitioner has completed, five or more  
4409 years previously, service of any sentence and any modification of sentence including probation, parole,  
4410 and suspension of sentence; that the petitioner has demonstrated civic responsibility through community  
4411 or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic  
4412 infractions, for the same period.

4413 If the court approves the petition, it shall so state in an order, provide a copy of the order to the  
4414 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the  
4415 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the  
4416 date of the order, subject to the approval or denial of restoration of that right by the Governor. The  
4417 Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the  
4418 petition for restoration of the right to be eligible to register to vote approved by the court order. The  
4419 Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at  
4420 the address stated on the court's order, a certificate of restoration of that right or notice that the  
4421 Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration  
4422 of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary  
4423 shall notify the court and the State Board of Elections in each case of the restoration of the right or  
4424 denial of restoration by the Governor.

4425 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
4426 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to

vote.

**§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

**§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity to Internal Revenue Code.**

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.

4488 116-136 (2020), related to the limitation on business interest;

4489 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2),  
4490 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of  
4491 the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2),  
4492 and 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax  
4493 attributes, and basis increases for certain loan forgiveness and other business financial assistance; and

4494 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would  
4495 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the  
4496 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision  
4497 shall not apply to any amendment to federal income tax law that is either subsequently adopted by the  
4498 General Assembly or a federal tax extender as defined in subdivision b;

4499 12. *For taxable years beginning on and after January 1, 2024, the prohibition on utilizing tax*  
4500 *deductions for ordinary and necessary expenditures made in connection with carrying on a trade or*  
4501 *business licensed in Virginia pursuant to Subtitle II of Title 4.1 (§ 4.1-600 et. seq.) under § 280E of the*  
4502 *Internal Revenue Code.*

4503 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die  
4504 of the previous regular session of the General Assembly and the first day of the subsequent regular  
4505 session of the General Assembly if the cumulative projected impact of such amendments would increase  
4506 or decrease general fund revenues by greater than \$75 million in the fiscal year in which the  
4507 amendments were enacted or any of the succeeding four fiscal years. The provisions of this subdivision  
4508 shall not apply to any amendment to federal income tax law that is (i) subsequently adopted by the  
4509 General Assembly, (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date  
4510 on which the cumulative projected impact is met. However, any amendment conformed to pursuant to  
4511 clause (iii) shall be included in the calculation of the \$75 million threshold for purposes of determining  
4512 whether such threshold has been met.

4513 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually  
4514 based on the preceding change in the Chained Consumer Price Index for All Urban Consumers  
4515 (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any  
4516 successor index for the previous year.

4517 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income  
4518 tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the  
4519 threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the  
4520 expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

4521 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance  
4522 and Appropriations and the House Committees on Appropriations and Finance, shall be responsible for  
4523 determining whether the criteria of subdivision a are met.

4524 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year  
4525 on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die  
4526 of the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on  
4527 Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of  
4528 Finance shall also provide updates to the same Chairmen on any further amendments to federal income  
4529 tax law occurring between submission of the required report and the first day of the subsequent regular  
4530 session of the General Assembly.

4531 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for  
4532 implementation of the provisions of this section, which procedures or guidelines shall be exempt from  
4533 the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

4534 **§ 59.1-200. Prohibited practices.**

4535 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
4536 transaction are hereby declared unlawful:

4537 1. Misrepresenting goods or services as those of another;

4538 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

4539 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or  
4540 services, with another;

4541 4. Misrepresenting geographic origin in connection with goods or services;

4542 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
4543 benefits;

4544 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

4545 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,  
4546 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first  
4547 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods  
4548 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"  
4549 irregulars, imperfections or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

- 4611 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 4612 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
- 4613 seq.);
- 4614 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
- 4615 seq.);
- 4616 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
- 4617 (§ 59.1-207.17 et seq.);
- 4618 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 4619 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
- 4620 (§ 59.1-424 et seq.);
- 4621 24. Violating any provision of § 54.1-1505;
- 4622 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
- 4623 17.6 (§ 59.1-207.34 et seq.);
- 4624 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 4625 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 4626 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 4627 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
- 4628 seq.);
- 4629 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 4630 seq.);
- 4631 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4632 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4633 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4634 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4635 35. Using the consumer's social security number as the consumer's account number with the supplier,
- 4636 if the consumer has requested in writing that the supplier use an alternate number not associated with
- 4637 the consumer's social security number;
- 4638 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4639 37. Violating any provision of § 8.01-40.2;
- 4640 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4641 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4642 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4643 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46
- 4644 (§ 59.1-525 et seq.);
- 4645 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4646 43. Violating any provision of § 59.1-443.2;
- 4647 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4648 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4649 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4650 47. Violating any provision of § 18.2-239;
- 4651 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4652 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 4653 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 4654 presumption that a supplier has reason to know a children's product was recalled if notice of the recall
- 4655 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale
- 4656 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to
- 4657 children's products that are used, secondhand or "seconds";
- 4658 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4659 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4660 52. Violating any provision of § 8.2-317.1;
- 4661 53. Violating subsection A of § 9.1-149.1;
- 4662 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
- 4663 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
- 4664 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
- 4665 which defective drywall has been permanently installed or affixed;
- 4666 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
- 4667 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in
- 4668 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
- 4669 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
- 4670 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 4671 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4672 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;



58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
67. Knowingly violating any provision of § 8.01-27.5;
68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an obligation to pay for the goods or services;
69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16~~ *Subtitle II* (§ ~~4.1-1600~~ *4.1-600* et seq.) of Title 4.1;
71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body *a licensed marijuana testing facility*, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16~~ *Subtitle II* (§ ~~4.1-1600~~ *4.1-600* et seq.) of Title 4.1;
72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;
73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;
74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if requested;
75. Violating any provision of § 59.1-466.8;
76. Violating subsection F of § 36-96.3:1;

4734 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or  
4735 (ii) any kratom product that does not include a label listing all ingredients and with the following  
4736 guidance: "This product may be harmful to your health, has not been evaluated by the FDA, and is not  
4737 intended to diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means  
4738 any part of the leaf of the plant *Mitragyna speciosa* or any extract thereof; and

4739 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to  
4740 a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of  
4741 any such good or provision of any such continuous service.

4742 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or  
4743 lease solely by reason of the failure of such contract or lease to comply with any other law of the  
4744 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation  
4745 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable  
4746 such contract or lease.

4747 2. That §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.

4748 3. That the following provisions shall become effective on January 1, 2025: (i) §§ 3.2-4113,  
4749 4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248,  
4750 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254,  
4751 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3,  
4752 18.2-287.2, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01,  
4753 19.2-386.22, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02,  
4754 19.2-392.6, 22.1-277.08, 46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of  
4755 Virginia, as amended by this act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114,  
4756 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309 of the  
4757 Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and  
4758 18.2-251.1 of the Code of Virginia, as repealed by this act.

4759 4. That the Virginia Cannabis Control Authority (the Authority) may, on and after July 1, 2024,  
4760 begin accepting license applications from all applicants, including pharmaceutical processors and  
4761 cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of  
4762 Title 4.1 of the Code of Virginia and industrial hemp processors or growers that are registered  
4763 with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1  
4764 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the  
4765 provisions of § 4.1-1000 of the Code of Virginia, as created by this act. Notwithstanding the third  
4766 enactment of this act, any applicant issued a license by the Authority may operate in accordance  
4767 with the provisions of this act prior to January 1, 2025; however, prior to January 1, 2025, no  
4768 licensee may engage in the retail sale of marijuana, marijuana products, immature marijuana  
4769 plants, or marijuana seeds. Notwithstanding any other provision of law, on or after July 1, 2024,  
4770 and prior to January 1, 2025, no marijuana cultivation facility licensee, marijuana processing  
4771 facility licensee, marijuana transporter licensee, retail marijuana store licensee, or marijuana  
4772 testing facility licensee or agent or employee thereof shall be subject to arrest or prosecution for a  
4773 violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or § 18.2-248,  
4774 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the  
4775 Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by  
4776 this act, involving marijuana if such violation is related to acts committed within the scope of the  
4777 licensure or employment and in accordance with the provisions of the Cannabis Control Act  
4778 (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. From July 1, 2024, to July 1, 2029,  
4779 the Authority shall reserve license slots for all pharmaceutical processors that have been issued a  
4780 permit by the Board of Directors (the Board) of the Authority pursuant to Chapter 16 (§ 4.1-1600  
4781 et seq.) of Title 4.1 of the Code of Virginia and issue a cultivation, processing, transporter, and  
4782 retail license to any such pharmaceutical processor that meets the applicable licensing  
4783 requirements. The Board shall not permit any marijuana cultivation facility licensee to engage in  
4784 the outdoor growth of marijuana plants until the Board has promulgated regulations governing  
4785 outdoor growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act.

4786 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a  
4787 seed-to-sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4788 6. That the Virginia Cannabis Control Authority shall (i) analyze whether any limits should be  
4789 placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze and  
4790 identify an appropriate canopy size for pharmaceutical processors that also hold a marijuana  
4791 cultivation facility license, and (iii) report its finding to the General Assembly by November 1,  
4792 2024.

4793 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall  
4794 promulgate regulations to implement the provisions of this act by December 31, 2024. With the  
4795 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative

4796 Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted  
4797 pursuant thereto shall apply to the Board's initial adoption of such regulations.  
4798 8. That the provisions of this act may result in a net increase in periods of imprisonment or  
4799 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
4800 necessary appropriation cannot be determined for periods of imprisonment in state adult  
4801 correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I,  
4802 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of  
4803 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
4804 appropriation cannot be determined for periods of commitment to the custody of the Department  
4805 of Juvenile Justice.