

SENATE BILL NO. 391

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on February 4, 2022)

(Patron Prior to Substitute--Senator Ebbin)

A BILL to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4113, 3.2-4116, 4.1-100, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, 4.1-128, 4.1-200, 4.1-201, 4.1-202, 4.1-205, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-206.2, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-212, 4.1-213, 4.1-215, 4.1-216, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, 4.1-230, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, 4.1-310.1, 4.1-320, 4.1-323, 4.1-324, 4.1-325, 4.1-325.2, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350 through 4.1-354, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-1100, 4.1-1101, 4.1-1105.1, 4.1-1107, 4.1-1108, 4.1-1121, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-2820, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 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, 18.2-308.03, 18.2-308.012, 18.2-308.016, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 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, 19.2-392.2:1, as it shall become effective, 19.2-392.2:2, as it shall become effective, 19.2-392.3, 19.2-392.6, as it shall become effective, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-165.1, 53.1-231.2, 54.1-2903, 54.1-3401, 54.1-3408.3,

27 54.1-3442.8, 54.1-3446, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of
28 Virginia and the tenth and twenty-third enactments of Chapter 550 and the tenth and twenty-third
29 enactments of Chapter 551 of the Acts of Assembly of 2021, Special Session I; to amend the Code
30 of Virginia by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections
31 numbered 3.2-5145.6 through 3.2-5145.9, by adding in Chapter 6 of Title 4.1 sections numbered
32 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections
33 numbered 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102 through 4.1-1105,
34 4.1-1106, 4.1-1111, and 4.1-1113 through 4.1-1119, by adding in Title 4.1 a chapter numbered 12,
35 consisting of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13 of Title 4.1
36 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Title 4.1 a
37 chapter numbered 14, consisting of sections numbered 4.1-1400 through 4.1-1407, by adding in
38 Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding sections numbered
39 19.2-303.03, 19.2-392.2:3, and 19.2-392.2:4; and to repeal Article 5 (§§ 3.2-5145.1 through 3.2-
40 5145.5) of Chapter 51 of Title 3.2 and §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of
41 the Code of Virginia and the sixteenth enactment of Chapter 550 and the sixteenth enactment of
42 Chapter 551 of the Acts of Assembly of 2021, Special Session I, relating to cannabis control; retail
43 market; penalties.

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

45 **1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3,**
46 **2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4113, 3.2-4116, 4.1-100, 4.1-101.02, 4.1-101.07,**
47 **4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, 4.1-112.2, 4.1-**
48 **113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective,**
49 **4.1-122, 4.1-124, 4.1-128, 4.1-200, 4.1-201, 4.1-202, 4.1-205, 4.1-206.1, as it is currently effective and**
50 **as it shall become effective, 4.1-206.2, 4.1-206.3, as it is currently effective and as it shall become**
51 **effective, 4.1-212, 4.1-213, 4.1-215, 4.1-216, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, 4.1-230, 4.1-**
52 **240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, 4.1-310.1, 4.1-320, 4.1-323, 4.1-324, 4.1-325, 4.1-325.2, 4.1-**
53 **329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350 through 4.1-354, 4.1-600, 4.1-601, 4.1-603,**

54 4.1-604, 4.1-606, 4.1-1100, 4.1-1101, 4.1-1105.1, 4.1-1107, 4.1-1108, 4.1-1121, 5.1-13, 9.1-101, as it is
55 currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-2820,
56 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-
57 248.01, 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,
58 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-
59 287.2, 18.2-308.03, 18.2-308.012, 18.2-308.016, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66,
60 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,
61 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.2:1, as it
62 shall become effective, 19.2-392.2:2, as it shall become effective, 19.3-392.3, 19.2-392.6, as it shall
63 become effective, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1,
64 51.1-212, 53.1-165.1, 53.1-231.2, 54.1-2903, 54.1-3401, 54.1-3408.3, 54.1-3442.8, 54.1-3446, 58.1-3,
65 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia are amended and reenacted
66 and that the Code of Virginia is amended by adding in Chapter 51 of Title 3.2 an article numbered
67 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Chapter 6 of Title
68 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10,
69 consisting of sections numbered 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102
70 through 4.1-1105, 4.1-1106, 4.1-1111, and 4.1-1113 through 4.1-1119, by adding in Title 4.1 a chapter
71 numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13
72 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Title
73 4.1 a chapter numbered 14, consisting of sections numbered 4.1-1400 through 4.1-1407, by adding
74 in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding sections numbered
75 19.2-303.03, 19.2-392.2:3, and 19.2-392.2:4 as follows:

76 § 2.2-221. Position established; agencies for which responsible; additional powers and duties.

77 A. The position of Secretary of Public Safety and Homeland Security (the Secretary) is created.
78 The Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic
79 Beverage Control Authority, Virginia Cannabis Control Authority, Department of Corrections,
80 Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic Science,

81 Virginia Parole Board, Department of Emergency Management, Department of State Police, Department
82 of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by executive
83 order, assign any other state executive agency to the Secretary, or reassign any agency listed above to
84 another Secretary.

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

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

89 1. Work with and through others, including federal, state, and local officials as well as the private
90 sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.

91 2. Serve as the point of contact with the federal Department of Homeland Security.

92 3. Provide oversight, coordination, and review of all disaster, emergency management, and
93 terrorism management plans for the state and its agencies in coordination with the Virginia Department
94 of Emergency Management and other applicable state agencies.

95 4. Work with federal officials to obtain additional federal resources and coordinate policy
96 development and information exchange.

97 5. Work with and through appropriate members of the Governor's Cabinet to coordinate working
98 relationships between state agencies and take all actions necessary to ensure that available federal and
99 state resources are directed toward safeguarding Virginia and its citizens.

100 6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-
101 related preparedness federal grant requests from state agencies and localities are used to enhance
102 interoperability. The Secretary shall ensure that the annual review and update of the statewide
103 interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth Interoperability
104 Coordinator shall establish an advisory group consisting of representatives of state and local government
105 and constitutional offices, broadly distributed across the Commonwealth, who are actively engaged in
106 activities and functions related to communications interoperability.

107 7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated
108 security and preparedness strategy, including the National Capital Region Senior Policy Group organized
109 as part of the federal Urban Areas Security Initiative.

110 8. Serve as a direct liaison between the Governor and local governments and first responders on
111 issues of emergency prevention, preparedness, response, and recovery.

112 9. Educate the public on homeland security and overall preparedness issues in coordination with
113 applicable state agencies.

114 10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

115 11. Encourage homeland security volunteer efforts throughout the state.

116 12. Coordinate the development of an allocation formula for State Homeland Security Grant
117 Program funds to localities and state agencies in compliance with federal grant guidance and constraints.
118 The formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and
119 need.

120 13. Work with the appropriate state agencies to ensure that regional working groups are meeting
121 regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access
122 to response teams in times of emergency and facilitate testing and training exercises for emergencies and
123 mass casualty preparedness.

124 14. Provide oversight and review of the Virginia Department of Emergency Management's annual
125 statewide assessment of local and regional capabilities, including equipment, training, personnel, response
126 times, and other factors.

127 15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts,
128 investment bankers, superintendents, managers, and such other employees and agents as may be
129 necessary, and fix their compensation to be payable from funds made available for that purpose.

130 16. Receive and accept from any federal or private agency, foundation, corporation, association,
131 or person grants, donations of money, real property, or personal property for the benefit of the
132 Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county,
133 or other political subdivision thereof, or any other source, aid or contributions of money, property, or other

134 things of value, to be held, used, and applied for the purposes for which such grants and contributions may
135 be made.

136 17. Receive and accept from any source aid, grants, and contributions of money, property, labor,
137 or other things of value to be held, used, and applied to carry out these requirements subject to the
138 conditions upon which the aid, grants, or contributions are made.

139 18. Make grants to local governments, state and federal agencies, and private entities with any
140 funds of the Secretary available for such purpose.

141 19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage
142 Control Authority and the Virginia Cannabis Control Authority.

143 20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably
144 implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

145 **§ 2.2-507. Legal service in civil matters.**

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

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

163 1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority or the
164 Virginia Cannabis Control Authority;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal
197 service to be rendered by him or one of his assistants, he may employ special counsel for this purpose,
198 whose compensation shall be fixed by the Attorney General. The compensation for such special counsel
199 shall be paid out of the funds appropriated for the administration of the board, commission, division, or
200 department being represented or whose members, officers, inspectors, investigators, or other employees
201 are being represented pursuant to this section. Notwithstanding any provision of this section to the
202 contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in
203 which it, or any justice, is a party.

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

205 **§ 2.2-511. Criminal cases.**

206 A. Unless specifically requested by the Governor to do so, the Attorney General shall have no
207 authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except
208 in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.) or the Cannabis
209 Control Act (§ 4.1-600 et seq.), (ii) violation of laws relating to elections and the electoral process as
210 provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the
211 handling of funds by a state bureau, institution, commission or department, (v) the theft of state property,
212 (vi) violation of the criminal laws involving child pornography and sexually explicit visual material

213 involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice
214 of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for
215 the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the
216 concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§
217 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control
218 Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations
219 of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such
220 crimes relate to violations of law listed in clause (x) ~~of this subsection~~, (xii) with the concurrence of the
221 local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in
222 the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases
223 the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may
224 institute proceedings by information, presentment or indictment, as appropriate, and conduct the same,
225 (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-
226 246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the
227 Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the
228 concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §
229 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state
230 correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting
231 in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

232 In all other criminal cases in the circuit courts, except where the law provides otherwise, the
233 authority of the Attorney General to appear or participate in the proceedings shall not attach unless and
234 until a notice of appeal has been filed with the clerk of the circuit court noting an appeal to the Court of
235 Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in
236 which the Commonwealth is a party or is directly interested, the Attorney General shall appear and
237 represent the Commonwealth, unless, and with the consent of the Attorney General, the attorney for the
238 Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the
239 Commonwealth in any such appeal.

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

251 **§ 2.2-1119. Cases in which purchasing through Division not mandatory.**

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

254 1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor
255 and materials;

256 2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the
257 use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by
258 state funds;

259 3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be
260 considered perishable within the meaning of this subdivision, unless so classified by the Division;

261 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board;
262 however, this exception may include, office stationery and supplies, office equipment, janitorial
263 equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when
264 authorized in writing by the Division;

265 5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control
266 Authority or the Virginia Cannabis Control Authority, including office stationery and supplies, office

267 equipment, and janitorial equipment and supplies; however, coal and fuel oil for heating purposes shall
268 not be included except when authorized in writing by the Division;

269 6. Binding and rebinding of the books and other literary materials of libraries operated by the
270 Commonwealth or under its authority;

271 7. Printing of the records of the Supreme Court; and

272 8. Financial services, including without limitation, underwriters, financial advisors, investment
273 advisors and banking services.

274 B. Telecommunications and information technology goods and services of every description shall
275 be procured as provided by § 2.2-2012.

276 **§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.**

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

285 1. Supporting persons, families, and communities historically and disproportionately targeted and
286 affected by drug enforcement;

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

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

293 4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-
294 163.01; ~~and~~

295 5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-
296 1501; and

297 6. Funding the staffing and administrative costs of the Cannabis Equity Reinvestment Board.
298 Expenditures for staffing and administration shall be limited to those that are reasonable and necessary
299 for carrying out the powers and duties of the Cannabis Equity Reinvestment Board.

300 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants
301 issued by the Comptroller upon written request signed by the Director of Diversity, Equity, and Inclusion.

302 **§ 2.2-2818. Health and related insurance for state employees.**

303 A. The Department of Human Resource Management shall establish a plan, subject to the approval
304 of the Governor, for providing health insurance coverage, including chiropractic treatment,
305 hospitalization, medical, surgical and major medical coverage, for state employees and retired state
306 employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such
307 plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by
308 such part-time employees. The Department of Human Resource Management shall administer this section.
309 The plan chosen shall provide means whereby coverage for the families or dependents of state employees
310 may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the
311 cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time
312 employee, may purchase the coverage by paying the additional cost over the cost of coverage for an
313 employee.

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

315 B. The plan shall:

316 1. Include coverage for low-dose screening mammograms for determining the presence of occult
317 breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through
318 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually

319 to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar
320 limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

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

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

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

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

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

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

344 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures
345 for the resolution of such complaints and shall be published and disseminated to all covered state

346 employees. The appeals process shall be compliant with federal rules and regulations governing
347 nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited
348 emergency appeals procedure that shall provide resolution within time frames established by federal law.
349 For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with
350 one or more independent review organizations to review such decisions. Independent review organizations
351 are entities that conduct independent external review of adverse benefit determinations. The Department
352 shall adopt regulations to assure that the independent review organization conducting the reviews has
353 adequate standards, credentials and experience for such review. The independent review organization shall
354 examine the final denial of claims to determine whether the decision is objective, clinically valid, and
355 compatible with established principles of health care. The decision of the independent review organization
356 shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for
357 those findings, and (iii) be final and binding if consistent with law and policy.

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

369 4. Include coverage for early intervention services. For purposes of this section, "early intervention
370 services" means medically necessary speech and language therapy, occupational therapy, physical therapy
371 and assistive technology services and devices for dependents from birth to age three who are certified by
372 the Department of Behavioral Health and Developmental Services as eligible for services under Part H of

373 the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early
374 intervention services for the population certified by the Department of Behavioral Health and
375 Developmental Services shall mean those services designed to help an individual attain or retain the
376 capability to function age-appropriately within his environment, and shall include services that enhance
377 functional ability without effecting a cure.

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

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

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

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

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

399 9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive
400 breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy
401 performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish
402 symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial
403 of coverage due to preexisting conditions.

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

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

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

416 13. Permit any individual covered under the plan direct access to the health care services of a
417 participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered
418 individual. The plan shall have a procedure by which an individual who has an ongoing special condition
419 may, after consultation with the primary care physician, receive a referral to a specialist for such condition
420 who shall be responsible for and capable of providing and coordinating the individual's primary and
421 specialty care related to the initial specialty care referral. If such an individual's care would most
422 appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the
423 purposes of this subdivision, "special condition" means a condition or disease that is ~~(i)~~ (a) life-
424 threatening, degenerative, or disabling and ~~(ii)~~ (b) requires specialized medical care over a prolonged
425 period of time. Within the treatment period authorized by the referral, such specialist shall be permitted

426 to treat the individual without a further referral from the individual's primary care provider and may
427 authorize such referrals, procedures, tests, and other medical services related to the initial referral as the
428 individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall
429 have a procedure by which an individual who has an ongoing special condition that requires ongoing care
430 from a specialist may receive a standing referral to such specialist for the treatment of the special
431 condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines
432 that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist.
433 Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written
434 notification to the covered individual's primary care physician of any visit to such specialist. Such
435 notification may include a description of the health care services rendered at the time of the visit.

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

440 For a period of at least 90 days from the date of the notice of a provider's termination from any of
441 the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted
442 by the plan to render health care services to any of the covered employees who (i) were in an active course
443 of treatment from the provider prior to the notice of termination and (ii) request to continue receiving
444 health care services from the provider.

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

450 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue
451 rendering health services to any covered employee who is determined to be terminally ill (as defined under
452 § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except

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

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

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

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

464 For purposes of this subdivision:

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

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

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

474 "NCI" means the National Cancer Institute.

475 "NIH" means the National Institutes of Health.

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

477 "Patient cost" means the cost of a medically necessary health care service that is incurred as a
478 result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not
479 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the

480 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research
481 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

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

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

- 488 a. The National Cancer Institute;
- 489 b. An NCI cooperative group or an NCI center;
- 490 c. The FDA in the form of an investigational new drug application;
- 491 d. The federal Department of Veterans Affairs; or
- 492 e. An institutional review board of an institution in the Commonwealth that has a multiple project
493 assurance contract approved by the Office of Protection from Research Risks of the NCI.

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

496 Coverage under this subdivision shall apply only if:

- 497 (1) There is no clearly superior, noninvestigational treatment alternative;
- 498 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment
499 will be at least as effective as the noninvestigational alternative; and
- 500 (3) The patient and the physician or health care provider who provides services to the patient under
501 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to
502 procedures established by the plan.

503 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a
504 covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered
505 employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized
506 guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours

507 referenced when the attending physician, in consultation with the covered employee, determines that a
508 shorter hospital stay is appropriate.

509 17. Include coverage for biologically based mental illness.

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

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

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

526 18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass
527 surgery or such other methods as may be recognized by the National Institutes of Health as effective for
528 the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits,
529 deductibles, copayments and coinsurance factors that are no less favorable than for physical illness
530 generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other
531 criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid
532 obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height,
533 and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal

534 to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such
535 as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per
536 meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by
537 height in meters squared.

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

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

553 21. Include coverage for infant hearing screenings and all necessary audiological examinations
554 provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug
555 Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current
556 position statement addressing early hearing detection and intervention programs. Such coverage shall
557 include follow-up audiological examinations as recommended by a physician, physician assistant, nurse
558 practitioner or audiologist and performed by a licensed audiologist to confirm the existence or absence of
559 hearing loss.

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

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

572 D. For the purposes of this section:

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

579 "Standard reference compendia" means:

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

583 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-
584 201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges,
585 clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic
586 relations, and district courts of the Commonwealth; interns and residents employed by the School of

587 Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia
588 Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the
589 Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05 and the Virginia Cannabis
590 Control Authority as provided in § 4.1-623.

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

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

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

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

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

607 H. Any self-insured group health insurance plan established by the Department of Human
608 Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a
609 formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed
610 at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and
611 therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii)
612 physicians, and (iii) other health care providers.

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

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

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

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

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

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

637 The Ombudsman shall:

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

- 640 2. Answer inquiries from covered employees by telephone and electronic mail.
- 641 3. Provide to covered employees information concerning the state health plans.
- 642 4. Develop information on the types of health plans available, including benefits and complaint
643 procedures and appeals.
- 644 5. Make available, either separately or through an existing Internet web site utilized by the
645 Department of Human Resource Management, information as set forth in subdivision 4 and such
646 additional information as he deems appropriate.
- 647 6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the
648 disposition of each such matter.
- 649 7. Upon request, assist covered employees in using the procedures and processes available to them
650 from their health plan, including all appeal procedures. Such assistance may require the review of health
651 care records of a covered employee, which shall be done only in accordance with the federal Health
652 Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical
653 records shall be maintained in accordance with the confidentiality and disclosure laws of the
654 Commonwealth.
- 655 8. Ensure that covered employees have access to the services provided by the Ombudsman and
656 that the covered employees receive timely responses from the Ombudsman or his representatives to the
657 inquiries.
- 658 9. Report annually on his activities to the standing committees of the General Assembly having
659 jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of
660 each year.
- 661 M. The plan established in accordance with this section shall not refuse to accept or make
662 reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered
663 employee.
- 664 For purposes of this subsection, "assignment of benefits" means the transfer of dental care
665 coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be
666 effective until the covered employee notifies the plan in writing of the assignment.

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

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

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

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

691 R. The Department of Human Resource Management shall report annually, by November 30 of
692 each year, on cost and utilization information for each of the mandated benefits set forth in subsection B,
693 including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established

694 pursuant to this section. The report shall be in the same detail and form as required of reports submitted
695 pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial
696 impact, including the costs and benefits, of the particular mandated benefit.

697 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

698 The provisions of this chapter shall not apply to:

- 699 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 700 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 701 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
702 house thereof is required or not;
- 703 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 704 5. Members of boards and commissions however selected;
- 705 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
706 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
707 notaries public;
- 708 7. Officers and employees of the General Assembly and persons employed to conduct temporary
709 or special inquiries, investigations, or examinations on its behalf;
- 710 8. The presidents and teaching and research staffs of state educational institutions;
- 711 9. Commissioned officers and enlisted personnel of the National Guard;
- 712 10. Student employees at institutions of higher education and patient or inmate help in other state
713 institutions;
- 714 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
715 employees compensated on an hourly or daily basis;
- 716 12. County, city, town, and district officers, deputies, assistants, and employees;
- 717 13. The employees of the Virginia Workers' Compensation Commission;
- 718 14. The officers and employees of the Virginia Retirement System;
- 719 15. Employees whose positions are identified by the State Council of Higher Education and the
720 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown

721 Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New
722 College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and
723 approved by the Director of the Department of Human Resource Management as requiring specialized
724 and professional training;

725 16. Employees of the Virginia Lottery;

726 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
727 and service industries who have a human resources classification of industry worker;

728 18. Employees of the Virginia Commonwealth University Health System Authority;

729 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans
730 for such employees shall be subject to the review and approval of the Board of Visitors of the University
731 of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
732 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
733 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

734 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
735 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
736 assistant for policy or administration. An employee serving in either one of these two positions shall be
737 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in
738 this exempt capacity;

739 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
740 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

741 22. Officers and employees of the Virginia Port Authority;

742 23. Employees of the Virginia College Savings Plan;

743 24. Directors of state facilities operated by the Department of Behavioral Health and
744 Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a
745 contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State
746 Grievance Procedure (§ 2.2-3000 et seq.);

747 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as
748 state employees for purposes of participation in the Virginia Retirement System, health insurance, and all
749 other employee benefits offered by the Commonwealth to its classified employees;

750 26. Employees of the Virginia Indigent Defense Commission;

751 27. Any chief of a campus police department that has been designated by the governing body of a
752 public institution of higher education as exempt, pursuant to § 23.1-809;

753 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic
754 Beverage Control Authority; ~~and~~

755 29. The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control
756 Authority; and

757 30. Officers and employees of the Fort Monroe Authority.

758 **§ 2.2-3114. Disclosure by state officers and employees.**

759 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant
760 Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any
761 circuit court, judges and substitute judges of any district court, members of the State Corporation
762 Commission, members of the Virginia Workers' Compensation Commission, members of the
763 Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement
764 System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority,
765 members of the Board of Directors of the Virginia Cannabis Control Authority, members of the Board of
766 the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons
767 occupying such offices or positions of trust or employment in state government, including members of the
768 governing bodies of authorities, as may be designated by the Governor, or officers or employees of the
769 legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file
770 with the Council, as a condition to assuming office or employment, a disclosure statement of their personal
771 interests and such other information as is required on the form prescribed by the Council pursuant to §
772 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

773 B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of
774 all policy and supervisory boards, commissions and councils in the executive branch of state government,
775 other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia
776 Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery
777 Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal
778 interests and such other information as is required on the form prescribed by the Council pursuant to §
779 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen
780 members of other boards, commissions and councils, including advisory boards and authorities, may be
781 required to file a disclosure form if so designated by the Governor, in which case the form shall be that
782 prescribed by the Council pursuant to § 2.2-3118.

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

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

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

798 F. An officer or employee of state government who is required to declare his interest pursuant to
799 subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the

800 nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member
801 of a business, profession, occupation, or group the members of which are affected by the transaction, and
802 (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer
803 or employee shall either make his declaration orally to be recorded in written minutes for his agency or
804 file a signed written declaration with the clerk or administrative head of his governmental or advisory
805 agency, as appropriate, who shall, in either case, retain and make available for public inspection such
806 declaration for a period of five years from the date of recording or receipt. If reasonable time is not
807 available to comply with the provisions of this subsection prior to participation in the transaction, the
808 officer or employee shall prepare and file the required declaration by the end of the next business day.

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

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

823 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
824 **investigations.**

825 The following information contained in a public record is excluded from the mandatory disclosure
826 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such

827 disclosure is prohibited by law. Redaction of information excluded under this section from a public record
828 shall be conducted in accordance with § 2.2-3704.01.

829 1. Information relating to investigations of applicants for licenses and permits, and of all licensees
830 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia
831 Cannabis Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of
832 Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§
833 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of
834 Criminal Justice Services.

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

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

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

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

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

861 7. Investigative notes, correspondence and information furnished in confidence, and records
862 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the
863 Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate
864 authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud
865 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector
866 General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an
867 investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the
868 head of a state agency or by any public institution of higher education; (vi) the committee or the auditor
869 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed
870 by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or
871 statute have responsibility for conducting an investigation of any officer, department, or program of such
872 body. Information contained in completed investigations shall be disclosed in a form that does not reveal
873 the identity of the complainants or persons supplying information to investigators. Unless disclosure is
874 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of
875 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve
876 the complaint. If an investigation does not lead to corrective action, the identity of the person who is the
877 subject of the complaint may be released only with the consent of the subject person. Local governing
878 bodies shall adopt guidelines to govern the disclosure required by this subdivision.

879 8. The names, addresses, and telephone numbers of complainants furnished in confidence with
880 respect to an investigation of individual zoning enforcement complaints or complaints relating to the

881 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
882 seq.) made to a local governing body.

883 9. Records of active investigations being conducted by the Department of Criminal Justice
884 Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185
885 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

886 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of §
887 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
888 unauthorized alteration, or improper administration of tests by local school board employees responsible
889 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of
890 such information to (i) a local school board or division superintendent for the purpose of permitting such
891 board or superintendent to consider or to take personnel action with regard to an employee or (ii) any
892 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
893 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
894 does not compromise the security of any test mandated by the Board.

895 11. Information contained in (i) an application for licensure or renewal of a license for teachers
896 and other school personnel, including transcripts or other documents submitted in support of an
897 application, and (ii) an active investigation conducted by or for the Board of Education related to the
898 denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel
899 licenses including investigator notes and other correspondence and information, furnished in confidence
900 with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)
901 application information to the applicant at his own expense or (b) investigation information to a local
902 school board or division superintendent for the purpose of permitting such board or superintendent to
903 consider or to take personnel action with regard to an employee. Information contained in completed
904 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
905 supplying information to investigators. The completed investigation information disclosed shall include
906 information regarding the school or facility involved, the identity of the person who was the subject of the
907 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation

908 fails to support a complaint or does not lead to corrective action, the identity of the person who was the
909 subject of the complaint may be released only with the consent of the subject person. No personally
910 identifiable information regarding a current or former student shall be released except as permitted by
911 state or federal law.

912 12. Information provided in confidence and related to an investigation by the Attorney General
913 under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10
914 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-
915 1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive
916 for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise
917 prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying
918 information, witnesses, or other individuals involved in the investigation.

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

921 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

923 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
924 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
925 officers, appointees, or employees of any public body; and evaluation of performance of departments or
926 schools of public institutions of higher education where such evaluation will necessarily involve
927 discussion of the performance of specific individuals. Any teacher shall be permitted to be present during
928 a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the
929 teacher and some student and the student involved in the matter is present, provided the teacher makes a
930 written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision,
931 however, shall be construed to authorize a closed meeting by a local governing body or an elected school
932 board to discuss compensation matters that affect the membership of such body or board collectively.

933 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
934 involve the disclosure of information contained in a scholastic record concerning any student of any public

935 institution of higher education in the Commonwealth or any state school system. However, any such
936 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be
937 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if
938 such student, parents, or guardians so request in writing and such request is submitted to the presiding
939 officer of the appropriate board.

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

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

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

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

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

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

961 9. Discussion or consideration by governing boards of public institutions of higher education of
962 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
963 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
964 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
965 accepted by a public institution of higher education in the Commonwealth shall be subject to public
966 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
967 (i) "foreign government" means any government other than the United States government or the
968 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
969 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the
970 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
971 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under
972 the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or
973 national of the United States or a trust territory or protectorate thereof.

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

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

979 12. Discussion or consideration of tests, examinations, or other information used, administered, or
980 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

981 13. Discussion, consideration, or review by the appropriate House or Senate committees of
982 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure
983 statement filed by the member, provided the member may request in writing that the committee meeting
984 not be conducted in a closed meeting.

985 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or
986 to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
987 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position

988 of the governing body or the establishment of the terms, conditions and provisions of the siting agreement,
989 or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

990 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
991 activity and estimating general and nongeneral fund revenues.

992 16. Discussion or consideration of medical and mental health records subject to the exclusion in
993 subdivision 1 of § 2.2-3705.5.

994 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
995 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
996 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
997 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
998 and subdivision 11 of § 2.2-3705.7.

999 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or
1000 discloses the identity of, or information tending to identify, any prisoner who (i) provides information
1001 about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or
1002 in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
1003 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1004 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
1005 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
1006 or emergency service officials concerning actions taken to respond to such matters or a related threat to
1007 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
1008 where discussion in an open meeting would jeopardize the safety of any person or the security of any
1009 facility, building, structure, information technology system, or software program; or discussion of reports
1010 or plans related to the security of any governmental facility, building or structure, or the safety of persons
1011 using such facility, building or structure.

1012 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,
1013 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
1014 trustees of a trust established by one or more local public bodies to invest funds for postemployment

1015 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2,
1016 or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board
1017 of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or
1018 disposition of a security or other ownership interest in an entity, where such security or ownership interest
1019 is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i)
1020 concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared
1021 by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings
1022 Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia
1023 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or
1024 the future financial performance of the entity, and (ii) would have an adverse effect on the value of the
1025 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of
1026 trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing
1027 in this subdivision shall be construed to prevent the disclosure of information relating to the identity of
1028 any investment held, the amount invested or the present value of such investment.

1029 21. Those portions of meetings in which individual child death cases are discussed by the State
1030 Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
1031 individual child death cases are discussed by a regional or local child fatality review team established
1032 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1033 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1034 which individual adult death cases are discussed by the state Adult Fatality Review Team established
1035 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
1036 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
1037 meetings in which individual death cases are discussed by overdose fatality review teams established
1038 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
1039 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
1040 meetings in which individual death cases of persons with developmental disabilities are discussed by the
1041 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1042 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
1043 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1044 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1045 Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary,
1046 business-related information pertaining to the operations of the University of Virginia Medical Center or
1047 Eastern Virginia Medical School, as the case may be, including business development or marketing
1048 strategies and activities with existing or future joint venturers, partners, or other parties with whom the
1049 University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed,
1050 or forms, any arrangement for the delivery of health care, if disclosure of such information would
1051 adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as
1052 the case may be.

1053 23. Discussion or consideration by the Virginia Commonwealth University Health System
1054 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the
1055 acquisition or disposition by the Authority of real property, equipment, or technology software or
1056 hardware and related goods or services, where disclosure would adversely affect the bargaining position
1057 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities
1058 of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing
1059 or operational strategies plans of the Authority where disclosure of such strategies or plans would
1060 adversely affect the competitive position of the Authority; and members of the Authority's medical and
1061 teaching staffs and qualifications for appointments thereto.

1062 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee
1063 within the Department of Health Professions to the extent such discussions identify any practitioner who
1064 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1065 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
1066 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by
1067 or on behalf of individuals who have requested information about, applied for, or entered into prepaid

1068 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title
1069 23.1 is discussed.

1070 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery
1071 Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as
1072 defined in § 56-484.12, related to the provision of wireless E-911 service.

1073 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1074 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1075 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a
1076 decision or meetings of health regulatory boards or conference committees of such boards to consider
1077 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
1078 requested by either of the parties.

1079 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-
1080 3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in
1081 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
1082 public entity concerning such records.

1083 29. Discussion of the award of a public contract involving the expenditure of public funds,
1084 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1085 discussion in an open session would adversely affect the bargaining position or negotiating strategy of the
1086 public body.

1087 30. Discussion or consideration of grant or loan application information subject to the exclusion
1088 in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1089 31. Discussion or consideration by the Commitment Review Committee of information subject to
1090 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
1091 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1092 32. Discussion or consideration of confidential proprietary information and trade secrets developed
1093 and held by a local public body providing certain telecommunication services or cable television services
1094 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this

1095 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
1096 seq.).

1097 33. Discussion or consideration by a local authority created in accordance with the Virginia
1098 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade
1099 secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1100 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
1101 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

1102 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
1103 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal
1104 investigative files.

1105 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
1106 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
1107 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
1108 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
1109 recover scholarship awards.

1110 37. Discussion or consideration by the Virginia Port Authority of information subject to the
1111 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the
1112 Virginia Port Authority.

1113 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1114 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
1115 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
1116 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory
1117 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of
1118 § 2.2-3705.7.

1119 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-
1120 3705.6 related to economic development.

1121 40. Discussion or consideration by the Board of Education of information relating to the denial,
1122 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1123 41. Those portions of meetings of the Virginia Military Advisory Council or any commission
1124 created by executive order for the purpose of studying and making recommendations regarding preventing
1125 closure or realignment of federal military and national security installations and facilities located in
1126 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
1127 appointed by a local governing body, during which there is discussion of information subject to the
1128 exclusion in subdivision 8 of § 2.2-3705.2.

1129 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1130 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1131 information of donors.

1132 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
1133 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
1134 contained in grant applications.

1135 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
1136 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
1137 charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain
1138 proprietary information of a private entity provided to the Authority.

1139 45. Discussion or consideration of personal and proprietary information related to the resource
1140 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
1141 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
1142 that contain information that has been certified for release by the person who is the subject of the
1143 information or transformed into a statistical or aggregate form that does not allow identification of the
1144 person who supplied, or is the subject of, the information.

1145 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage
1146 Control Authority or the Board of Directors of the Virginia Cannabis Control Authority of information

1147 subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses
1148 and permits and of licensees and permittees.

1149 47. Discussion or consideration of grant, loan, or investment application records subject to the
1150 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-
1151 2351 et seq.) of Chapter 22.

1152 48. Discussion or development of grant proposals by a regional council established pursuant to
1153 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and
1154 Opportunity Board.

1155 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
1156 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
1157 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
1158 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
1159 §§ 15.2-1627.5 and 63.2-1605.

1160 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
1161 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
1162 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
1163 subdivision 33 of § 2.2-3705.7.

1164 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
1165 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
1166 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
1167 § 60.2-114.

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

1171 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the
1172 denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or

1173 revocation of any license or permit related to casino gaming, and discussion, consideration, or review of
1174 matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1175 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007
1176 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to
1177 sports betting and any discussion, consideration, or review of matters related to investigations excluded
1178 from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1179 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
1180 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
1181 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
1182 motion that shall have its substance reasonably identified in the open meeting.

1183 C. Public officers improperly selected due to the failure of the public body to comply with the
1184 other provisions of this section shall be de facto officers and, as such, their official actions are valid until
1185 they obtain notice of the legal defect in their election.

1186 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
1187 more public bodies, or their representatives, but these conferences shall be subject to the same procedures
1188 for holding closed meetings as are applicable to any other public body.

1189 E. This section shall not be construed to (i) require the disclosure of any contract between the
1190 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§
1191 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to
1192 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered
1193 to issue industrial revenue bonds by general or special law, to identify a business or industry to which
1194 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record
1195 at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1196 **§ 2.2-3802. Systems to which chapter inapplicable.**

1197 The provisions of this chapter shall not apply to personal information systems:

- 1198 1. Maintained by any court of the Commonwealth;
- 1199 2. Which may exist in publications of general circulation;

1200 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137
1201 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
1202 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
1203 be posted on the Internet pursuant to § 9.1-913;

1204 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
1205 16.1-225;

1206 5. Maintained by agencies concerning persons required by law to be licensed in the
1207 Commonwealth to engage in the practice of any profession, in which case the names and addresses of
1208 persons applying for or possessing the license may be disseminated upon written request to a person
1209 engaged in the profession or business of offering professional educational materials or courses for the sole
1210 purpose of providing the licensees or applicants for licenses with informational materials relating solely
1211 to available professional educational materials or courses, provided the disseminating agency is
1212 reasonably assured that the use of the information will be so limited;

1213 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
1214 Commission, the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, ~~and~~ the
1215 Virginia Alcoholic Beverage Control Authority, and the Virginia Cannabis Control Authority;

1216 7. Maintained by any of the following and that deal with investigations and intelligence gathering
1217 related to criminal activity:

- 1218 a. The Department of State Police;
- 1219 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
- 1220 c. Police departments of cities, counties, and towns;
- 1221 d. Sheriff's departments of counties and cities;
- 1222 e. Campus police departments of public institutions of higher education as established by Article
1223 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
- 1224 f. The Division of Capitol Police.

1225 8. Maintained by local departments of social services regarding alleged cases of child abuse or
1226 neglect while such cases are also subject to an ongoing criminal prosecution;

1227 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1228 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the
1229 promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons
1230 requesting information on those subjects may be disseminated upon written request to a person engaged
1231 in the business of providing travel services or distributing travel information, provided the Virginia
1232 Tourism Authority is reasonably assured that the use of the information will be so limited;

1233 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General
1234 Services and the Department of Forensic Science, which deal with scientific investigations relating to
1235 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1236 12. Maintained by the Department of Corrections or the Office of the State Inspector General that
1237 deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
1238 (§ 2.2-307 et seq.);

1239 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of
1240 state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste
1241 and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town
1242 or a school board that deals with local investigations required by § 15.2-2511.2;

1243 14. Maintained by the Department of Social Services or any local department of social services
1244 relating to public assistance fraud investigations;

1245 15. Maintained by the Department of Social Services related to child welfare or public assistance
1246 programs when requests for personal information are made to the Department of Social Services. Requests
1247 for information from these systems shall be made to the appropriate local department of social services
1248 that is the custodian of that record. Notwithstanding the language in this section, an individual shall not
1249 be prohibited from obtaining information from the central registry in accordance with the provisions of §
1250 63.2-1515; and

1251 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services,
1252 adult protective services, or auxiliary grants when requests for personal information are made to the

1253 Department for Aging and Rehabilitative Services. Requests for information from these systems shall be
1254 made to the appropriate local department of social services that is the custodian of that record.

1255 **§ 2.2-4024. Hearing officers.**

1256 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided
1257 over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court
1258 and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-
1259 finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a
1260 hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The
1261 Executive Secretary may promulgate rules necessary for the administration of the hearing officer system
1262 and shall have the authority to establish the number of hearing officers necessary to preside over
1263 administrative hearings in the Commonwealth.

1264 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

- 1265 1. Active membership in good standing in the Virginia State Bar;
- 1266 2. Active practice of law for at least five years; and
- 1267 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court.

1268 In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the
1269 Executive Secretary may require additional training before a hearing officer shall be assigned to a
1270 proceeding before that agency.

1271 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer
1272 from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting
1273 geographic preference and specialized training or knowledge shall be maintained by the Executive
1274 Secretary if an agency demonstrates the need.

1275 C. A hearing officer appointed in accordance with this section shall be subject to disqualification
1276 as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-
1277 4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the
1278 Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with

1279 particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or
1280 the applicable rule of practice requiring disqualification.

1281 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1282 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a
1283 case decision matter shall render that recommendation or conclusion as follows:

1284 1. If the agency's written regulations or procedures require the hearing officer to render a
1285 recommendation or conclusion within a specified time period, the hearing officer shall render the
1286 recommendation or conclusion on or before the expiration of the specified period; and

1287 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90
1288 days from the date of the case decision proceeding or from a later date agreed to by the named party and
1289 the agency.

1290 If the hearing officer does not render a decision within the time required by this subsection, then
1291 the agency or the named party to the case decision may provide written notice to the hearing officer and
1292 the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days
1293 from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall
1294 remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State
1295 Bar for possible disciplinary action, unless good cause is shown for the delay.

1296 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause
1297 after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render
1298 a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for
1299 the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary
1300 for reconsideration, followed by judicial review in accordance with this chapter.

1301 F. This section shall not apply to hearings conducted by (i) any commission or board where all of
1302 the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, the
1303 Virginia Cannabis Control Authority, the Virginia Workers' Compensation Commission, the State
1304 Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles
1305 under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the

1306 Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a
 1307 health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a
 1308 relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§
 1309 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant
 1310 to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who
 1311 are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings
 1312 pursuant to clause (ii) shall participate in periodic training courses.

1313 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to
 1314 hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife
 1315 Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia
 1316 Resources Authority pursuant to their basic laws.

1317 **§ 3.2-1010. Enforcement of chapter; summons.**

1318 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding
 1319 certain members of the Virginia Alcoholic Beverage Control Authority and the Virginia Cannabis Control
 1320 Authority, may enforce the provisions of this chapter and the regulations adopted hereunder as well as
 1321 those who are so designated by the Commissioner. Those designated by the Commissioner may issue a
 1322 summons to any person who violates any provision of this chapter to appear at a time and place to be
 1323 specified in such summons.

1324 **§ 3.2-3906. Board to adopt regulations.**

1325 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.),
 1326 including:

- 1327 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply
- 1328 pesticides;
- 1329 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1330 3. Requiring reporting and record keeping related to licensing and registration;
- 1331 4. Establishing training, testing and standards for certification of commercial applicators,
- 1332 registered technicians, and private applicators;

1333 5. Revoking, suspending or denying licenses (business), registration (products), and certification
1334 or certificate (applicators or technicians);

1335 6. Requiring licensees and certificate holders to inform the public when using pesticides in and
1336 around structures;

1337 7. Establishing a fee structure for licensure, registration and certification to defray the costs of
1338 implementing this chapter;

1339 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such
1340 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial,
1341 institutional, structural or health-related pest control;

1342 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or
1343 residuals that: (i) undesirably persists in the environment or increases due to biological amplification or
1344 unreasonable adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man,
1345 animal, bird or plant may be contrary to the public interest;~~and~~

1346 10. Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in
1347 compliance with Chapter 41.1 (§ 3.2-4112 et seq.) or the Cannabis Control Act (§ 4.1-600 et seq.); and

1348 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1349 **§ 3.2-4113. Production of industrial hemp lawful.**

1350 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a dealer or
1351 his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any
1352 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under
1353 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
1354 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol
1355 concentration that does not exceed the total delta-9 tetrahydrocannabinol concentration percentage
1356 established in federal regulations applicable to negligent violations located at 7 C.F.R. 990.6(b)(3). No
1357 dealer or his agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of
1358 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
1359 for the possession, dealing, or processing of industrial hemp. In any complaint, information, or indictment,

1360 and in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100
1361 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 (§
1362 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption
1363 contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse,
1364 proviso, or exemption shall be on the defendant.

1365 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or
1366 regulation.

1367 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or ~~§ 18.2-247,~~
1368 ~~18.2-248, 18.2-248.01, 18.2-248.1,~~ or 18.2-250 for the involuntary growth of industrial hemp through the
1369 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or
1370 process site.

1371 **§ 3.2-4116. Registration conditions.**

1372 A. A person ~~who is not a federally licensed hemp producer~~ shall obtain a registration pursuant to
1373 subsection A of § 3.2-4115 prior to growing, dealing in, or processing any industrial hemp in the
1374 Commonwealth.

1375 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1376 1. Maintain records that reflect compliance with this chapter and all other state and federal laws
1377 regulating the growing, dealing in, or processing of industrial hemp;

1378 2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

1379 3. Allow his production field, dealership, or process site to be inspected by and at the discretion of
1380 the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer
1381 of the locality in which the production field or dealership or process site exists;

1382 4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's
1383 industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes
1384 established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

1385 5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in
1386 a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the

1387 dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting
 1388 as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of
 1389 tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that
 1390 the processor produces.

1391 Article 6.

1392 Edible Marijuana Products and Edible Hemp Products.

1393 **§ 3.2-5145.6. Definitions.**

1394 As used in this article, unless the context requires a different meaning:

1395 "Edible hemp product" means the same as that term is defined in § 4.1-600.

1396 "Edible marijuana product" means the same as that term is defined in § 4.1-600.

1397 "Food" means any article that is intended for human consumption and introduction into commerce,

1398 whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation

1399 thereof. "Food" does not mean "drug" as defined in § 54.1-3401.

1400 **§ 3.2-5145.7. Edible marijuana products and edible hemp products; approved food;**
 1401 **adulterated food.**

1402 A. An edible marijuana product or edible hemp product is a food and is subject to the requirements
 1403 of this chapter and regulations adopted pursuant to this chapter.

1404 B. An edible marijuana product or edible hemp product that does not comply with the provisions
 1405 of § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

1406 **§ 3.2-5145.8. Manufacturer of edible marijuana products or edible hemp products.**

1407 A manufacturer of an edible marijuana product or edible hemp product shall be an approved source
 1408 if the manufacturer operates:

1409 1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and

1410 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible

1411 marijuana products or edible hemp products in the location in which such manufacturing occurs.

1412 **§ 3.2-5145.9. Regulations.**

1413 A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

1414 B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§
1415 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption
1416 of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the
1417 Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post
1418 the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i)
1419 a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address,
1420 and telephone number of the agency contact person responsible for receiving public comments. Such
1421 notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of
1422 public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to
1423 the promulgation or final adoption process for regulations adopted pursuant to this section. The Board
1424 shall consider and keep on file all public comments received for any regulation adopted pursuant to this
1425 section.

1426 **§ 4.1-100. Definitions.**

1427 As used in this ~~title~~ subtitle, unless the context requires a different meaning:

1428 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
1429 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl
1430 alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
1431 formulas approved by the government of the United States.

1432 "Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

1433 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
1434 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
1435 by inhalation.

1436 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such
1437 varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic
1438 beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine,
1439 or beer and capable of being consumed by a human being. Any liquid or solid containing more than one
1440 of the four varieties shall be considered as belonging to that variety which has the higher percentage of

1441 alcohol, however obtained, according to the order in which they are set forth in this definition; except that
1442 beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing
1443 alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived
1444 from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an
1445 alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content
1446 of more than six percent by volume, as long as no more than one and one-half percent of the volume of
1447 the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients
1448 containing alcohol.

1449 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in
1450 which works of art are sold or displayed.

1451 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~
1452 subtitle.

1453 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1454 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;
1455 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)
1456 offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight
1457 lodging is provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and breakfast
1458 establishment" includes any property offered to the public for short-term rental, as that term is defined in
1459 § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each
1460 person to whom overnight lodging is provided.

1461 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
1462 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent
1463 or more of alcohol by volume.

1464 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1465 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
1466 ounces.

1467 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20
1468 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
1469 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
1470 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with
1471 charging stations at every seat for cellular phones or other portable devices, and (vi) during the
1472 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth
1473 in this ~~title~~ subtitle or Board regulation.

1474 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
1475 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
1476 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
1477 means the establishment so operated. A corporation or association shall not lose its status as a club because
1478 of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter
1479 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic
1480 beverages are served or consumed in the room where such charitable gaming is being conducted while
1481 such gaming is being conducted and that no alcoholic beverages are made available upon the premises to
1482 any person who is neither a member nor a bona fide guest of a member.

1483 Any such corporation or association which has been declared exempt from federal and state income
1484 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
1485 corporation or association.

1486 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum
1487 of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
1488 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
1489 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
1490 owners' association that is responsible for the management, maintenance, and operation of the common
1491 areas thereof.

1492 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding
1493 alcoholic beverages.

1494 "Contract winemaking facility" means the premises of a licensed winery or farm winery that
1495 obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and
1496 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an
1497 agreement with the farm winery licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract
1498 winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm
1499 winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine.
1500 The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of
1501 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
1502 charge the farm winery for its services.

1503 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent
1504 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
1505 intended for human consumption consisting of a variety of such items of the types normally sold in grocery
1506 stores.

1507 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
1508 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
1509 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
1510 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
1511 recreational and educational activities related to farming, livestock, and other rural activities.

1512 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring
1513 little preparation, such as cheeses, salads, cooked meats, and related condiments.

1514 "Designated area" means a room or area approved by the Board for on-premises licensees.

1515 "Dining area" means a public room or area in which meals are regularly served.

1516 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist
1517 pursuant to a prescription and other medicines and items for home and general use.

1518 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
1519 manufactured, sold, or used.

1520 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land
1521 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
1522 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1523 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
1524 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
1525 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
1526 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1527 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
1528 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
1529 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
1530 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate
1531 and apart from all other facilities of the institution, and (d) such farm winery is operated in strict
1532 conformance with the requirements of this clause (ii) and Board regulations. As used in this definition,
1533 the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the
1534 purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
1535 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1536 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land
1537 zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise
1538 permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does
1539 not include land zoned "residential conservation." Except for the limitation on land zoned "residential
1540 conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local
1541 zoning authority.

1542 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs,
1543 specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral
1544 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
1545 where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine
1546 or beer. Such shop may be located (i) on the premises or grounds of a government registered national,

1547 state or local historic building or site or (ii) within the premises of a museum. The Board shall consider
1548 the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered
1549 a gift shop.

1550 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer
1551 may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
1552 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1553 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial
1554 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for
1555 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and
1556 educating the consuming public about local oysters and other seafood products.

1557 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
1558 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
1559 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
1560 furnished to persons.

1561 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1562 "Grocery store" means an establishment that sells food and other items intended for human
1563 consumption, including a variety of ingredients commonly used in the preparation of meals.

1564 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3)
1565 of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
1566 showing motion pictures to the public.

1567 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
1568 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
1569 four or more bedrooms. It shall also mean the person who operates such hotel.

1570 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
1571 pursuant to this ~~title~~ subtitle.

1572 "Internet wine and beer retailer" means a person who owns or operates an establishment with
1573 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or

1574 telephone orders are taken and shipped directly to consumers and which establishment is not a retail store
1575 open to the public.

1576 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
1577 observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

1578 "Licensed" means the holding of a valid license granted by the Authority.

1579 "Licensee" means any person to whom a license has been granted by the Authority.

1580 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an
1581 alcohol content of 25 percent by volume.

1582 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of
1583 alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of
1584 spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water,
1585 fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
1586 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
1587 this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or
1588 a distiller located outside the Commonwealth.

1589 "Marina store" means an establishment that is located on the same premises as a marina, is operated
1590 by the owner of such marina, and sells food and nautical and fishing supplies.

1591 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
1592 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
1593 specializing in full course meals with a single substantial entree.

1594 "Member of a club" means (i) a person who maintains his membership in the club by the payment
1595 of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
1596 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
1597 descendants of a bona fide member, whether alive or deceased, of a national or international organization
1598 to which an individual lodge holding a club license is an authorized member in the same locality. It shall
1599 also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of
1600 resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

1601 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
1602 spirits.

1603 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring
1604 materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or
1605 preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or
1606 not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed
1607 by a Virginia corporation.

1608 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849
1609 and which is the county seat of Smyth County.

1610 "Place or premises" means the real estate, together with any buildings or other improvements
1611 thereon, designated in the application for a license as the place at which the manufacture, bottling,
1612 distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building
1613 or other improvement actually and exclusively used as a private residence.

1614 "Principal stockholder" means any person who individually or in concert with his spouse and
1615 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
1616 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
1617 and immediate family members has the power to vote or cause the vote of five percent or more of any
1618 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
1619 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
1620 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

1621 "Public place" means any place, building, or conveyance to which the public has, or is permitted
1622 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
1623 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
1624 highway, street, or lane.

1625 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for
1626 private meetings or private parties limited in attendance to members and guests of a particular group,
1627 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or

1628 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
1629 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
1630 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
1631 use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner
1632 or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which
1633 are not licensed by the Board and on which alcoholic beverages are not sold.

1634 "Residence" means any building or part of a building or structure where a person resides, but does
1635 not include any part of a building that is not actually and exclusively used as a private residence, nor any
1636 part of a hotel or club other than a private guest room thereof.

1637 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
1638 facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable
1639 corporation with voluntary membership which, as its primary function, makes available golf, ski, and
1640 other recreational facilities both to its members and to the general public; or (iii) operated by a corporation
1641 that operates as a management company which, as its primary function, makes available (a) vacation
1642 accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to
1643 members of the managed entities and the general public. The hotel or corporation shall have or manage a
1644 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not
1645 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is
1646 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the
1647 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant
1648 establishment in determining whether it shall be considered as a resort complex. All other pertinent
1649 qualifications established by the Board for a hotel operation shall be observed by such licensee.

1650 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license,
1651 any establishment provided with special space and accommodation, where, in consideration of payment,
1652 meals or other foods prepared on the premises are regularly sold.

1653 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
1654 license, an established place of business (i) where meals with substantial entrees are regularly sold and

1655 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals
1656 for consumption at tables in dining areas on the premises, and includes establishments specializing in full
1657 course meals with a single substantial entree.

1658 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
1659 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
1660 beverages.

1661 "Sangria" means a drink consisting of red or white wine mixed with some combination of
1662 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
1663 similar spirits.

1664 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom
1665 the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

1666 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
1667 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

1668 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable
1669 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin,
1670 or any one or more of the last four named ingredients, but shall not include any such liquors completely
1671 denatured in accordance with formulas approved by the United States government.

1672 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
1673 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either
1674 with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no
1675 product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in
1676 the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed
1677 an alcohol content of 21 percent by volume.

1678 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
1679 and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting
1680 of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
1681 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar

1682 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
1683 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

1684 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees
1685 for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
1686 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by
1687 such retail licensee.

1688 **§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of**
1689 **confidential assistant to the Chief Executive Officer.**

1690 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed
1691 by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief
1692 Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree
1693 in business or a related field of study; and shall possess a minimum of seven years of demonstrated
1694 experience or expertise in the direct management, supervision, or control of a business or legal affairs.
1695 The Chief Executive Officer shall receive such compensation as determined by the Board and approved
1696 by the Governor, including any performance bonuses or incentives as the Board deems advisable. The
1697 Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The
1698 Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or
1699 imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved
1700 by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause,
1701 including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence,
1702 misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or
1703 targets as set by the Board and approved by the Governor, failure to carry out the policies of the
1704 Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a
1705 lawful directive of the Governor.

1706 B. The Chief Executive Officer shall devote his full time to the performance of his official duties
1707 and shall not be engaged in any other profession or occupation.

1708 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in
1709 accordance with this ~~title~~ subtitle.

1710 D. The Chief Executive Officer shall:

1711 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the
1712 Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

1713 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as
1714 may be conferred or imposed upon him by law;

1715 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer
1716 as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer,
1717 subject to the Board's approval; and

1718 4. Make recommendations to the Board for legislative and regulatory changes.

1719 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of
1720 the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the
1721 local or state level or cause such a contribution to be made on his behalf.

1722 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also
1723 appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-
1724 will basis.

1725 **§ 4.1-101.07. Forms of accounts and records; audit; annual report.**

1726 A. The accounts and records of the Authority showing the receipt and disbursement of funds from
1727 whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of
1728 Public Accounts or his legally authorized representatives shall annually examine the accounts and books
1729 of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on
1730 or before December 15 of each year. Such report shall contain the audited annual financial statements of
1731 the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan
1732 detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs,
1733 including lease payments, major acquisitions of services and tangible or intangible property, any material

1734 changes to the policies and procedures issued by the Authority related to procurement or personnel, and
1735 any proposed marketing activities.

1736 B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~
1737 subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement
1738 systems. These systems and related procedures shall be subject to review and approval by the State
1739 Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail
1740 on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts'
1741 financial management system or its successor system. Such reports shall be made in accordance with
1742 policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement
1743 system shall include all disbursements and expenditures, other than payroll. Such disbursements and
1744 expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments,
1745 petty cash, and interagency payments.

1746 **§ 4.1-101.09. Exemptions from taxes or assessments.**

1747 The exercise of the powers granted by this ~~title~~ subtitle shall be in all respects for the benefit of
1748 the people of the Commonwealth, for the increase of their commerce and prosperity, and for the
1749 improvement of their living conditions, and as the undertaking of activities in the furtherance of the
1750 purposes of the Authority constitutes the performance of essential governmental functions, the Authority
1751 shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority
1752 under the provisions of this ~~title~~ subtitle or upon the income therefrom, including sales and use taxes on
1753 the tangible personal property used in the operations of the Authority. The exemption granted in this
1754 section shall not be construed to extend to persons conducting on the premises of any property of the
1755 Authority businesses for which local or state taxes would otherwise be required.

1756 **§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures;**
1757 **information systems; etc.**

1758 A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public
1759 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power
1760 conferred under this ~~title~~ subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2

1761 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any
1762 power conferred under this ~~title~~ subtitle.

1763 B. To effect its implementation, the Authority's procurement of goods, services, insurance, and
1764 construction and the disposition of surplus materials shall be exempt from:

1765 1. State agency requirements regarding disposition of surplus materials and distribution of
1766 proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

1767 2. The requirement to purchase from the Department for the Blind and Vision Impaired under §
1768 2.2-1117; and

1769 3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods,
1770 services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2,
1771 regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia
1772 Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding
1773 the review and the oversight by the Division of Engineering and Buildings of the Department of General
1774 Services of contracts for the construction of the Authority's capital projects and construction-related
1775 professional services under § 2.2-1132.

1776 C. The Authority (i) may purchase from and participate in all statewide contracts for goods and
1777 services, including information technology goods and services; (ii) shall use directly or by integration or
1778 interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed
1779 upon between the Authority and the Department of General Services; and (iii) shall post on the Department
1780 of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal,
1781 sole source award notices, and emergency award notices to ensure visibility and access to the Authority's
1782 procurement opportunities on one website.

1783 **§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
1784 **communications as alternative to regular mail; limitation.**

1785 A. Whenever in this ~~title~~ subtitle the Board is required to send any mail or notice by certified mail
1786 and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail
1787 or notice that is sent by the Board may be sent by regular mail.

1788 B. Except as provided in subsection C, whenever in this ~~title~~ subtitle the Board is required or
1789 permitted to send any mail, notice, or other official communication by regular mail to persons licensed
1790 under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail,
1791 notice, or official communication by email, text message, or other electronic means to the email address,
1792 telephone number, or other contact information provided to the Board by the licensee, provided that the
1793 Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or
1794 a certificate of service prepared by the Board confirming the electronic delivery.

1795 C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension
1796 or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be
1797 sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board
1798 to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text
1799 message, or other electronic means.

1800 **§ 4.1-103. General powers of Board.**

1801 The Board shall have the power to:

- 1802 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
- 1803 2. Adopt, use, and alter at will a common seal;
- 1804 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
1805 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority
1806 for the purpose of providing for the payment of the expenses of the Authority;
- 1807 4. Make and enter into all contracts and agreements necessary or incidental to the performance of
1808 its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ subtitle, including
1809 agreements with any person or federal agency;
- 1810 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
1811 experts, investment bankers, superintendents, managers, and such other employees and special agents as
1812 may be necessary and fix their compensation to be payable from funds made available to the Authority.
1813 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
1814 (§ 2.2-500 et seq.) of Title 2.2;

1815 6. Receive and accept from any federal or private agency, foundation, corporation, association, or
1816 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
1817 and accept from the Commonwealth or any state and any municipality, county, or other political
1818 subdivision thereof or from any other source aid or contributions of either money, property, or other things
1819 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
1820 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
1821 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
1822 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
1823 conditions as are prescribed by the Commonwealth;

1824 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
1825 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
1826 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
1827 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
1828 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
1829 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
1830 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or
1831 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
1832 and tasks;

1833 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the
1834 Authority's purposes or necessary or convenient to exercise its powers;

1835 9. Develop policies and procedures generally applicable to the procurement of goods, services,
1836 and construction, based upon competitive principles;

1837 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43
1838 of Title 2.2;

1839 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm
1840 wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its
1841 possession for sale;

- 1842 12. Buy and sell any mixers;
- 1843 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within
1844 international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares
1845 and glass), and 25 (clothing);
- 1846 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
- 1847 15. Determine, subject to § 4.1-121, the localities within which government stores shall be
1848 established or operated and the location of such stores;
- 1849 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
1850 beverages to and from such warehouses;
- 1851 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
1852 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
1853 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
1854 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
1855 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
1856 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
1857 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
1858 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
1859 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
1860 land or building required for the purposes of this ~~title~~ subtitle;
- 1861 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
1862 considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying,
1863 blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and
1864 manufacture alcoholic beverages;
- 1865 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages
1866 to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be
1867 placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered
1868 or crystalline alcohol;

1869 20. Appoint every agent and employee required for its operations; require any or all of them to
1870 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the
1871 services of experts and professionals;

1872 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the
1873 production of records, memoranda, papers and other documents before the Board or any agent of the
1874 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member
1875 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
1876 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
1877 The Board may enter into consent agreements and may request and accept from any applicant or licensee
1878 a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary
1879 action. Any such consent agreement shall include findings of fact and may include an admission or a
1880 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall
1881 not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et
1882 seq.), but may be considered by the Board in future disciplinary proceedings;

1883 22. Make a reasonable charge for preparing and furnishing statistical information and compilations
1884 to persons other than (i) officials, including court and police officials, of the Commonwealth and of its
1885 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
1886 interest in obtaining the information requested if such information is not to be used for commercial or
1887 trade purposes;

1888 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
1889 and § 4.1-111;

1890 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation,
1891 and sale of alcoholic beverages;

1892 25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board
1893 regulations;

1894 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

1895 27. Establish minimum food sale requirements for all retail licensees;

1896 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief
1897 Executive Officer as the Board deems appropriate;

1898 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-
1899 enforcement activities undertaken to enforce the provisions of this ~~title~~ subtitle;

1900 30. Establish and collect fees for all permits set forth in this ~~title~~ subtitle, including fees associated
1901 with applications for such permits;

1902 31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and
1903 operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license
1904 in excess of the applicable state license fee; and

1905 32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

1906 **§ 4.1-104. Purchases by the Board.**

1907 The purchasing of alcoholic beverages and mixers, products used in connection with distilled
1908 spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-
1909 103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the
1910 provisions of this ~~title~~ subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

1911 **§ 4.1-105. Police power of members, agents and employees of Board.**

1912 Members of the Board are vested, and such agents and employees of the Board designated by it
1913 shall be vested, with like power to enforce the provisions of (i) this ~~title~~ subtitle and the criminal laws of
1914 the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-
1915 4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

1916 **§ 4.1-106. Liability of Board members; suits by and against Board.**

1917 A. No Board member may be sued civilly for doing or omitting to do any act in the performance
1918 of his duties as prescribed by this ~~title~~ subtitle, except by the Commonwealth, and then only in the Circuit
1919 Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted
1920 by the Attorney General.

1921 B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of
1922 Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board

1923 may defend the proceedings and may institute proceedings in any court. No such proceedings shall be
1924 taken against, or in the names of, the members of the Board.

1925 **§ 4.1-107. Counsel for members, agents and employees of Board.**

1926 If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted
1927 on any charge arising out of any act committed in the discharge of his official duties, the Board chairman
1928 may employ special counsel approved by the Attorney General to defend such member, agent, or
1929 employee. The compensation for special counsel employed pursuant to this section, shall, subject to the
1930 approval of the Attorney General, be paid in the same manner as other expenses incident to the
1931 administration of this ~~title~~ subtitle are paid.

1932 **§ 4.1-111. Regulations of Board.**

1933 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or
1934 the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~
1935 subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic
1936 beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated,
1937 amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall
1938 have the effect of law.

1939 B. The Board shall promulgate regulations that:

1940 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or
1941 consumed on any licensed premises, including a provision that mixed beverages may be sold only at such
1942 times as wine and beer may be sold.

1943 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be
1944 served by such licensee.

1945 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers,
1946 brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established
1947 trade customs, quantity and value of the articles or services involved; prevent undue competitive
1948 domination of any person by any other person engaged in the manufacture, distribution and sale at retail

1949 or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of
1950 arm's length business transactions.

1951 4. Establish requirements for the form, content, and retention of all records and accounts, including
1952 the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in
1953 kegs, by all licensees.

1954 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer
1955 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the
1956 address on record with the Board by certified mail, return receipt requested, and by regular mail.

1957 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage
1958 spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with
1959 the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the
1960 manufacturers' seals, marks, or stamps affixed to the bottles are intact.

1961 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from
1962 licensees for purchases at government stores, including provision for the collection, where appropriate, of
1963 related fees, penalties, and service charges.

1964 8. Require that banquet licensees in charge of public events as defined by Board regulations report
1965 to the Board the income and expenses associated with the public event on a form prescribed by the Board
1966 when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of
1967 the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages
1968 are being sold.

1969 9. Provide alternative methods for licensees to maintain and store business records that are subject
1970 to Board inspection, including methods for Board-approved electronic and off-site storage.

1971 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing
1972 one-half of one percent or more of alcohol by volume in the same location where wine and beer are
1973 available for sale within the licensed premises.

1974 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store,
1975 and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20
1976 liters.

1977 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant
1978 to subsection C of § 4.1-232.

1979 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic
1980 beverages, not inconsistent with the provisions of this ~~title~~ subtitle, so that such advertising does not
1981 encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic
1982 beverages may not be lawfully sold. Such regulations shall:

1983 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with
1984 (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale
1985 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
1986 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
1987 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
1988 retail licensees as set forth in Board regulation; and

1989 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ subtitle and
1990 (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated
1991 under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real
1992 estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ subtitle.

1993 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer
1994 pursuant to an agreement with a brand owner not under common control with the manufacturing brewery
1995 and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the
1996 brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement
1997 be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the
1998 parties.

1999 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations
2000 shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy

2001 hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees
2002 from using creative marketing techniques in such advertisements, provided that such techniques do not
2003 tend to induce overconsumption or consumption by minors.

2004 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one
2005 bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals
2006 to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period
2007 and subject to any Board limitations on the frequency of such gifts.

2008 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of
2009 glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved
2010 by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2011 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass,
2012 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the
2013 Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine
2014 growlers may be used only by persons licensed to sell wine for both on-premises and off-premises
2015 consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by
2016 gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production,
2017 (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

2018 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-
2019 premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer
2020 license for off-premises consumption in sealed containers made of metal or other materials approved by
2021 the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided
2022 that the alcoholic beverage is placed in the container following an order from the consumer.

2023 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic
2024 beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations
2025 established by the Board.

2026 21. Establish and make available to all licensees and permittees for which on-premises
2027 consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve

2028 as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar
2029 bystander training module, which shall include (i) information that enables licensees, permittees, and their
2030 employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent
2031 such situations from culminating in sexual assault.

2032 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises,
2033 available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such
2034 food shall be available in all areas of the licensed premises in which spirits are sold or served.

2035 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2036 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or
2037 other documents necessary to verify the licensee's compliance with applicable minimum food sale
2038 requirements within 30 days of the date such records or documents are due.

2039 C. The Board may promulgate regulations that:

2040 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to
2041 be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
2042 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
2043 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-
2044 profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2045 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
2046 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-
2047 325.2.

2048 3. Provide incentives to licensees with a proven history of compliance with state and federal laws
2049 and regulations to encourage licensees to conduct their business and related activities in a manner that is
2050 beneficial to the Commonwealth.

2051 D. Board regulations shall be uniform in their application, except those relating to hours of sale
2052 for licensees.

2053 E. Courts shall take judicial notice of Board regulations.

2054 F. The Board's power to regulate shall be broadly construed.

2055 § 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.

2056 A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same
2057 side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which
2058 the advertisement is placed to the nearest edge of a building or structure located on the real property of (i)
2059 a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school
2060 or an institution of higher education; (iii) a public or private playground or similar recreational facility; or
2061 (iv) a dwelling used for residential use.

2062 B. However, (i) if there is no building or structure on a playground or similar recreational facility,
2063 the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed
2064 to the property line of such playground or similar recreational facility and (ii) if a public or private school
2065 providing grade K through 12 education is located across the road from a sign, the measurement shall be
2066 from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a
2067 building or structure located on such real property across the road.

2068 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from
2069 (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial
2070 school or an institution of higher education; (iii) a public or private playground or similar recreational
2071 facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser
2072 would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as
2073 displayed for the remainder of the term of any written advertising contract, but in no event more than one
2074 year from the date of the change in circumstances.

2075 D. The Board may grant a permit authorizing a variance from the distance requirements of this
2076 section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly
2077 expose children to alcoholic beverage advertising.

2078 E. Provided such signs are in compliance with local ordinances, the distance and zoning
2079 restrictions contained in this section shall not apply to:

- 2080 1. Signs placed by licensees upon the property on which the licensed premises are located; or

2081 2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade
2082 names, brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

2083 F. The distance and zoning restrictions contained in this section shall not apply to any sign that is
2084 included in the Integrated Directional Sign Program administered by the Virginia Department of
2085 Transportation or its agents.

2086 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor
2087 alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property.
2088 Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor
2089 advertising that would be prohibited under state law or local ordinance.

2090 H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this
2091 ~~title subtitle~~, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted
2092 pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage
2093 directional sign located or to be located on highway rights of way shall also be governed by and comply
2094 with the Integrated Directional Sign Program administered by the Virginia Department of Transportation
2095 or its agents.

2096 **§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.**

2097 All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~
2098 subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted
2099 pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage
2100 directional sign located or to be located on highway rights-of-way shall also be governed by and comply
2101 with the Integrated Directional Sign Program administered by the Virginia Department of Transportation
2102 or its agents.

2103 **§ 4.1-115. Reports and accounting systems of Board; auditing books and records.**

2104 A. The Board shall make reports to the Governor as he may require covering the administration
2105 and enforcement of this ~~title subtitle~~. Additionally, the Board shall submit an annual report to the Governor
2106 and General Assembly on or before December 15 each year, which shall contain:

2107 1. A statement of the nature and amount of the business transacted by each government store during
2108 the year;

2109 2. A statement of the assets and liabilities of the Board, including a statement of income and
2110 expenses and such other financial statements and matters as may be necessary to show the result of the
2111 operations of the Board for the year;

2112 3. A statement showing the taxes collected under this ~~title~~ subtitle during the year;

2113 4. General information and remarks about the working of the alcoholic beverage control laws
2114 within the Commonwealth; and

2115 5. Any other information requested by the Governor.

2116 B. The Board shall maintain an accounting system in compliance with generally accepted
2117 accounting principles and approved in accordance with § 2.2-803.

2118 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual
2119 audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted
2120 by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit
2121 examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

2122 **§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve**
2123 **fund.**

2124 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury,
2125 or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on
2126 account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as
2127 required by § 2.2-1802.

2128 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection
2129 C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
2130 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
2131 expenses incurred in establishing and maintaining government stores and in the administration of the
2132 provisions of this ~~title~~ subtitle, including the purchasing, building, leasing and operation of distilleries and
2133 the manufacture of alcoholic beverages.

2134 B. The net profits derived under the provisions of this ~~title~~ subtitle shall be transferred by the
2135 Comptroller to the general fund of the state treasury quarterly, within ~~forty~~ fifty 50 days after the close of each
2136 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may
2137 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of
2138 \$2.5 million in connection with the administration of this ~~title~~ subtitle and to provide for the depreciation
2139 on the buildings, plants and equipment owned, held or operated by the Board.

2140 C. The term "net profits" as used in this section means the total of all moneys collected by the
2141 Board less all costs, expenses and charges authorized by this section.

2142 **§ 4.1-118. Certain information not to be made public.**

2143 Neither the Board nor its employees shall divulge any information regarding (i) financial reports
2144 or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed
2145 with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded
2146 to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine
2147 taxes collected pursuant to this ~~title~~ subtitle and to purchase orders and invoices for beer and wine filed
2148 with the Board by wholesale beer and wine licensees.

2149 Nothing contained in this section shall prohibit the use or release of such information or documents
2150 by the Board to any governmental or law-enforcement agency, or when considering the granting, denial,
2151 revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or
2152 permittee.

2153 Nor shall this section prohibit the Board or its employees from compiling and disseminating to any
2154 member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection
2155 as long as such information does not reveal or disclose excise tax collection from any identified licensee;
2156 (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery,
2157 distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the
2158 total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total
2159 amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such
2160 information does not identify the licensee.

2161 § 4.1-119. (Effective until July 1, 2022) Operation of government stores.

2162 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and
2163 operate government stores for the sale of spirits, wine produced by farm wineries, low alcohol beverage
2164 coolers produced by licensed distillers, vermouth, mixers, products used in connection with distilled
2165 spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be
2166 approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as
2167 specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board
2168 may discontinue any such store.

2169 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give
2170 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

2171 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
2172 brands of alcoholic beverages and other Board-approved products that are sold in government stores.
2173 Differences in the cost of operating stores, and market competition and conditions may be reflected in the
2174 sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to
2175 federal instrumentalities (i) authorized and operating under the laws of the United States and regulations
2176 of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or
2177 reservations over which the United States has acquired jurisdiction, at prices which may be greater or less
2178 than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed
2179 to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores,
2180 which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

2181 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who
2182 shall carry out the provisions of this ~~title~~ subtitle and Board regulations governing the operation of
2183 government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a
2184 distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol
2185 beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at
2186 government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an

2187 event licensed by the Board and conducted for the purpose of featuring and educating the consuming
2188 public about spirits products.

2189 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the
2190 provisions of this ~~title~~ subtitle, Board regulations, and the terms of the agency agreement between the
2191 Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to
2192 an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of
2193 the goods sold. If the licensed distiller makes application and meets certain requirements established by
2194 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board
2195 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be
2196 limited to the amount due to the Board in applicable taxes and markups.

2197 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
2198 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of §
2199 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor
2200 of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving
2201 distillery.

2202 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
2203 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151
2204 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

2205 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to
2206 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall
2207 be in closed containers, sealed and affixed with labels prescribed by the Board.

2208 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part
2209 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm
2210 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
2211 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic
2212 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A

2213 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not
2214 lawfully be sold pursuant to § 4.1-304.

2215 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed
2216 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic
2217 beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the spirits,
2218 beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous
2219 premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four
2220 ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed
2221 beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits;
2222 (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold
2223 to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption
2224 of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as
2225 part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured
2226 on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75
2227 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous
2228 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep
2229 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed
2230 premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples
2231 that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery
2232 shall be purchased from the Board.

2233 The Board shall establish guidelines governing tasting events conducted pursuant to this
2234 subsection.

2235 Any case fee charged to a licensed distiller by the Board for moving spirits from the production
2236 and bailment area to the tasting area of a government store established by the Board on the distiller's
2237 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

2238 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in
2239 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or

2240 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)
2241 provide notice to licensees on Board policies relating to the assignment of government stores from which
2242 licensees may purchase products and any procedure for the licensee to elect to make purchases from an
2243 alternative government store.

2244 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in
2245 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
2246 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
2247 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any
2248 consumer.

2249 J. Before the Authority implements any increase in the markup on distilled spirits or any change
2250 to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the
2251 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public
2252 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written
2253 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of
2254 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal
2255 comments before implementing such a price increase.

2256 **§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

2257 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and
2258 operate government stores for the sale of spirits, wine produced by farm wineries, low alcohol beverage
2259 coolers produced by licensed distillers, vermouth, mixers, products used in connection with distilled
2260 spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be
2261 approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as
2262 specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board
2263 may discontinue any such store.

2264 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give
2265 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

2266 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
2267 brands of alcoholic beverages and other Board-approved products that are sold in government stores.
2268 Differences in the cost of operating stores, and market competition and conditions may be reflected in the
2269 sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to
2270 federal instrumentalities (i) authorized and operating under the laws of the United States and regulations
2271 of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or
2272 reservations over which the United States has acquired jurisdiction, at prices which may be greater or less
2273 than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed
2274 to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores,
2275 which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

2276 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who
2277 shall carry out the provisions of this ~~title~~ subtitle and Board regulations governing the operation of
2278 government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a
2279 distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol
2280 beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at
2281 government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an
2282 event licensed by the Board and conducted for the purpose of featuring and educating the consuming
2283 public about spirits products.

2284 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the
2285 provisions of this ~~title~~ subtitle, Board regulations, and the terms of the agency agreement between the
2286 Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to
2287 an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of
2288 the goods sold. If the licensed distiller makes application and meets certain requirements established by
2289 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board
2290 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be
2291 limited to the amount due to the Board in applicable taxes and markups.

2292 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
2293 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of §
2294 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor
2295 of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving
2296 distillery.

2297 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
2298 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101
2299 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

2300 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to
2301 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall
2302 be in closed containers, sealed and affixed with labels prescribed by the Board.

2303 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part
2304 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm
2305 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
2306 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic
2307 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A
2308 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not
2309 lawfully be sold pursuant to § 4.1-304.

2310 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed
2311 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic
2312 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or
2313 cider samples are manufactured within the same licensed premises or on contiguous premises of such
2314 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,
2315 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case
2316 a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces
2317 of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and
2318 (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing

2319 in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.
2320 Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises
2321 or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used
2322 in such samples is manufactured on the licensed premises or on contiguous premises of the licensed
2323 distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises
2324 no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on
2325 contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not
2326 manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be
2327 purchased from the Board.

2328 The Board shall establish guidelines governing tasting events conducted pursuant to this
2329 subsection.

2330 Any case fee charged to a licensed distiller by the Board for moving spirits from the production
2331 and bailment area to the tasting area of a government store established by the Board on the distiller's
2332 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

2333 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in
2334 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or
2335 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)
2336 provide notice to licensees on Board policies relating to the assignment of government stores from which
2337 licensees may purchase products and any procedure for the licensee to elect to make purchases from an
2338 alternative government store.

2339 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in
2340 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
2341 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
2342 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any
2343 consumer.

2344 J. Before the Authority implements any increase in the markup on distilled spirits or any change
2345 to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the

2346 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public
2347 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written
2348 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of
2349 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal
2350 comments before implementing such a price increase.

2351 **§ 4.1-122. Effect of local option referenda.**

2352 A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a
2353 majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on
2354 which the order of the court, setting forth the results of such referendum was entered of record, none of
2355 the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or
2356 shipment to persons outside of such county, city, or town authorized under this ~~title~~ subtitle to acquire the
2357 alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train,
2358 boat or airplane selling wine and beer to bona fide passengers.

2359 B. If in any such referendum held in any county, city, or town in which a majority of the qualified
2360 voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent
2361 election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121,
2362 then such alcoholic beverages may, in accordance with this ~~title~~ subtitle, be sold within the county, city,
2363 or town on and after 60 days from the day on which the order of the court setting forth the results of such
2364 election is entered of record.

2365 C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's
2366 election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by
2367 the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be
2368 prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section
2369 and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such
2370 county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for
2371 on-premises consumption, provided the appropriate license fees are paid for the privilege.

2372 D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery
2373 or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell
2374 alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations
2375 into any county, city, or town, except as otherwise prohibited by this ~~title~~ subtitle.

2376 E. For the purpose of this section, when any referendum is held in any town, separate and apart
2377 from the county in which such town or a part thereof is located, such town shall be treated as being separate
2378 and apart from such county.

2379 **§ 4.1-124. Referendum on the sale of mixed beverages.**

2380 A. The provisions of this ~~title~~ subtitle relating to the sale of mixed beverages shall be effective in
2381 any town, county, or supervisor's election district of a county unless a majority of the voters voting in a
2382 referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants
2383 licensed under this ~~title~~ subtitle should be prohibited. The qualified voters of a town, county, or
2384 supervisor's election district of a county may file a petition with the circuit court of the county asking that
2385 a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by
2386 the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters
2387 equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election
2388 district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

2389 Petition requirements for any county shall be based on the number of registered voters in the
2390 county, including the number of registered voters in any town having a population in excess of 1,000
2391 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall
2392 order the election officials of the county to conduct a referendum on the question.

2393 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper
2394 of general circulation in the town, county, or supervisor's election district once a week for three
2395 consecutive weeks prior to the referendum.

2396 The question on the ballot shall be:

2397 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic
 2398 Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election
 2399 district of county)?"

2400 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-
 2401 681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the
 2402 clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed
 2403 beverages prohibited from sale by such referendum shall not be sold by restaurants within the town,
 2404 county, or supervisor's election district of a county on or after 30 days following the entry of the order if
 2405 a majority of the voters voting in the referendum have voted "Yes."

2406 The provisions of this section shall be applicable to towns having a population in excess of 1,000
 2407 to the same extent and subject to the same conditions and limitations as are otherwise applicable to
 2408 counties under this section. Such towns shall be treated as separate local option units, and only residents
 2409 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such
 2410 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote
 2411 in any referendum held pursuant to this section for any county in which the town is located.

2412 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
 2413 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100
 2414 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants
 2415 licensed under this ~~title~~ subtitle should be prohibited was previously held in the former city and a majority
 2416 of the voters voting in such referendum voted "Yes."

2417 B. Once a referendum has been held, no other referendum on the same question shall be held in
 2418 the town, county, or supervisor's election district of a county for a period of 23 months.

2419 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed
 2420 on property dedicated for industrial or commercial development and controlled through the provision of
 2421 public utilities and covenanting of the land by any multijurisdictional industrial development authority, as
 2422 set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates
 2423 under a partnership agreement between three or more counties, cities, or towns and such jurisdictions

2424 participate administratively and financially in the authority and (ii) the sale of mixed beverages is
2425 permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the
2426 counties and that the governing board of the authority authorizes an establishment located within the
2427 confines of such property to apply to the Board for such license. The appropriate license fees shall be paid
2428 for this privilege.

2429 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122,
2430 the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not
2431 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

2432 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage
2433 restaurant license to a restaurant located on the premises of and operated by a private club exclusively for
2434 its members and their guests, subject to the qualifications and restrictions on the issuance of such license
2435 imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private
2436 club restricts its membership on the basis of race, color, creed, national origin, or sex.

2437 **§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.**

2438 A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance
2439 or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale
2440 distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in
2441 the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or
2442 regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of
2443 the Board, and federal law at a licensed farm winery.

2444 No provision of law, general or special, shall be construed to authorize any county, city or town to
2445 adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the
2446 taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the
2447 authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in
2448 whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an
2449 annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege

2450 tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and
2451 treats alcoholic beverages the same as if they were nonalcoholic beverages.

2452 B. However, the governing body of any county, city, or town may adopt an ordinance that (i)
2453 prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E
2454 of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii)
2455 subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage
2456 containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public
2457 street.

2458 C. Except as provided in this section, all local acts, including charter provisions and ordinances of
2459 cities and towns, inconsistent with any of the provisions of this ~~title~~ subtitle, are repealed to the extent of
2460 such inconsistency.

2461 **§ 4.1-200. Exemptions from licensure.**

2462 The licensure requirements of this chapter shall not apply to:

2463 1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care
2464 of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or
2465 causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is
2466 in need of the same, either by way of external application or otherwise for emergency medicinal purposes.
2467 Such person may charge for the alcoholic beverages so administered, and carry such stock as may be
2468 necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so
2469 administered to him where the same have been supplied to the institution by the Board free of charge.

2470 2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to
2471 engage in such business of any medicine containing sufficient medication to prevent it from being used
2472 as a beverage.

2473 3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to
2474 engage in such business of any medicinal preparations manufactured in accordance with formulas
2475 prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations;
2476 and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary

2477 to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than
2478 is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured
2479 and sold to be used exclusively as medicine and not as beverages.

2480 4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations
2481 and solutions not intended for internal human use nor to be sold as beverages.

2482 5. The manufacture and sale of food products known as flavoring extracts which are manufactured
2483 and sold for cooking and culinary purposes only and not sold as beverages.

2484 6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic
2485 consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided,
2486 wine or beer or both, in an amount not to exceed the limits permitted by federal law.

2487 Any person who manufactures wine or beer in accordance with this subdivision may remove from
2488 his residence an amount not to exceed ~~fifty~~ 50 liters of such wine or ~~fifteen~~ 15 gallons of such beer on any
2489 one occasion for (i) personal or family use, provided such use does not violate the provisions of this ~~title~~
2490 subtitle or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an
2491 amount not to exceed (a) one liter of wine per person per year or (b) ~~seventy-two~~ 72 ounces of beer per
2492 person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom
2493 beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume
2494 or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or
2495 exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this
2496 paragraph shall be construed to authorize the sale of such wine or beer.

2497 The provision of this subdivision shall not apply to any person who resides on property on which
2498 a winery, farm winery, or brewery is located.

2499 7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for
2500 his personal use or that of his family. However, such alcoholic beverages may be served or given to guests
2501 in such residence by such person, his family or servants when (i) such guests are 21 years of age or older
2502 or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption
2503 or possession of such alcoholic beverages by family members or such guests occurs only in such residence

2504 where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such
2505 service or gift is in no way a shift or device to evade the provisions of this ~~title~~ subtitle. The provisions of
2506 this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying
2507 the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of
2508 whether the person who permanently resides in the residence is present during the short-term rental.

2509 8. Any person who manufactures and sells cider to distillery licensees, or any person who
2510 manufactures wine from grapes grown by such person and sells it to winery licensees.

2511 9. The sale of wine and beer in or through canteens or post exchanges on United States reservations
2512 when permitted by the proper authority of the United States.

2513 10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private
2514 meeting or private party limited in attendance to members and guests of a particular group, association or
2515 organization at a banquet or similar affair, or at a special event, if a banquet license has been granted.
2516 However, no banquet license shall be required for private meetings or private parties limited in attendance
2517 to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i)
2518 the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic
2519 beverages are consumed is limited to the common area regularly occupied and utilized for such private
2520 meetings or private parties, and (iii) such meetings or parties are not open to the public.

2521 **§ 4.1-201. Conduct not prohibited by this subtitle; limitation.**

2522 A. Nothing in this ~~title~~ subtitle or any Board regulation adopted pursuant thereto shall prohibit:

2523 1. Any club licensed under this chapter from keeping for consumption by its members any
2524 alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold,
2525 dispensed or given away in violation of this ~~title~~ subtitle.

2526 2. Any person from having grain, fruit or fruit products and any other substance, when grown or
2527 lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages
2528 to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with
2529 Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where
2530 distilled except in accordance with Board regulations.

2531 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere,
2532 alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such
2533 alcoholic beverages.

2534 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in
2535 closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to
2536 (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of
2537 resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of
2538 the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the
2539 Commonwealth for resale outside the Commonwealth.

2540 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant
2541 for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee,
2542 provided the places of business or establishments for which the retail licenses are desired are located upon
2543 the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such
2544 person contiguous to such premises, or in a development contiguous to such premises owned and operated
2545 by such person or a wholly owned subsidiary.

2546 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other
2547 than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such
2548 alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the
2549 Commonwealth for resale outside the Commonwealth.

2550 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed
2551 containers from other wineries or farm wineries located inside or outside the Commonwealth, or the
2552 receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from
2553 fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to
2554 be used only for the fortification of wine produced by the licensee in accordance with Board regulations,
2555 or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed
2556 to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
2557 outside the Commonwealth.

2558 8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to
2559 another farm winery or winery licensee for the purpose of additional bottling in accordance with Board
2560 regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

2561 9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed
2562 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used
2563 by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be
2564 deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent
2565 it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The
2566 selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate
2567 records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

2568 10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a
2569 sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises
2570 consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer,
2571 or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption.
2572 Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples
2573 of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in which case a sample of
2574 spirits may contain up to one and one-half ounces of spirits. No more than 12 ounces of beer, five ounces
2575 of wine, or three ounces of spirits shall be given to any person per day.

2576 11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not
2577 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-
2578 premises retail licensees or prohibit any such retail licensee from displaying the service items on the
2579 premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain
2580 a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less
2581 than two years from the date of each sale of the service items. As used in this subdivision, "service items"
2582 mean articles of tangible personal property normally used by the employees of on-premises retail licensees
2583 to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and
2584 coasters.

2585 12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed
2586 in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,
2587 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage
2588 advertising. Such items may be distributed to retail licensees in quantities equal to the number of
2589 employees of the retail establishment present at the time the items are delivered. Thereafter, such
2590 employees may wear or display the items on the licensed premises.

2591 13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale
2592 or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines
2593 or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage
2594 licensee, his agent or employee from offering for sale or selling for one price to any person to whom
2595 alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more
2596 than five different spirits products.

2597 14. Any restaurant licensed under this chapter from permitting the consumption of lawfully
2598 acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by
2599 the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a
2600 retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto
2601 the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may
2602 charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee
2603 shall not charge any other fee to such customer.

2604 15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer
2605 importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail
2606 establishments information about wine, beer, or spirits being consumed on such premises.

2607 16. Any private swim club operated by a duly organized nonprofit corporation or association from
2608 allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and
2609 consume such alcoholic beverages on the premises of such club.

2610 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for
2611 resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee
2612 from receiving or selling the same.

2613 **§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.**

2614 The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and
2615 to all agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under
2616 such license. The licensee may be held liable for any violation of this ~~title~~ subtitle or any Board regulation
2617 committed by such agents or employees in connection with their employment.

2618 **§ 4.1-205. Local licenses.**

2619 A. In addition to the state licenses provided for in this chapter, the governing body of each county,
2620 city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town
2621 licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture,
2622 bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses
2623 authorized by § 4.1-211. Subject to § 4.1-233.1, the governing body of a county, city or town may classify
2624 licenses and graduate the license taxes therefor in the manner it deems proper.

2625 B. No county, city, or town shall issue a local license to any person who does not hold or secure
2626 simultaneously the proper state license. If any person holds any local license without at the same time
2627 holding the proper state license, the local license, during the period when such person does not hold the
2628 proper state license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

2629 **§ 4.1-206.1. (Effective until July 1, 2022) Manufacturer licenses.**

2630 The Board may grant the following manufacturer licenses:

2631 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other
2632 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in
2633 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
2634 Commonwealth. When the Board has established a government store on the distiller's licensed premises
2635 pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to

2636 consumers to participate in an organized tasting event conducted in accordance with subsection G of §
2637 4.1-119 and Board regulations.

2638 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on
2639 land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural
2640 products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's
2641 licensees shall be treated as distillers for all purposes of this ~~title~~ subtitle except as otherwise provided in
2642 this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an
2643 agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use.
2644 For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
2645 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
2646 shall otherwise limit or affect local zoning authority.

2647 3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver
2648 or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
2649 licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the
2650 Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the
2651 brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that
2652 not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is
2653 manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers
2654 and other reusable containers, for off-premises consumption.

2655 4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer
2656 per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned
2657 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
2658 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the
2659 farm. The licensed premises shall be limited to the portion of the farm on which agricultural products,
2660 including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown
2661 and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any
2662 residence and the curtilage thereof. However, the Board may, with notice to the local governing body in

2663 accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part
2664 of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned
2665 as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery
2666 use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
2667 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
2668 shall otherwise limit or affect local zoning authority.

2669 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except
2670 as otherwise provided in this subdivision.

2671 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver
2672 or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell
2673 the wine so manufactured at wholesale for the purpose of resale, and to persons outside the
2674 Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the
2675 licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits
2676 from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the
2677 licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with
2678 Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit
2679 issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license
2680 for on-premises consumption or in closed containers for off-premises consumption, provided that any
2681 brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any
2682 wine sold for on-premises consumption is manufactured on the licensed premises.

2683 6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21
2684 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board
2685 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at
2686 wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee
2687 may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in
2688 accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose
2689 of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the

2690 premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses
2691 located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~
2692 subtitle, a farm winery license shall be designated either as a Class A or Class B farm winery license in
2693 accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in
2694 accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking
2695 facility.

2696 Such licenses shall also authorize the licensee to sell wine at retail at the places of business
2697 designated in the licenses, which may include no more than five additional retail establishments of the
2698 licensee. Wine may be sold at these business places for on-premises consumption and in closed containers
2699 for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is
2700 purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served
2701 and sold for on-premises or off-premises consumption at these business places.

2702 7. Wine importer's licenses, which shall authorize persons located within or outside the
2703 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed
2704 containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of
2705 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

2706 8. Beer importer's licenses, which shall authorize persons located within or outside the
2707 Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers,
2708 to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to
2709 persons outside the Commonwealth for resale outside the Commonwealth.

2710 **§ 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.**

2711 The Board may grant the following manufacturer licenses:

2712 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other
2713 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in
2714 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
2715 Commonwealth. When the Board has established a government store on the distiller's licensed premises
2716 pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to

2717 consumers to participate in an organized tasting event conducted in accordance with subsection G of §
2718 4.1-119 and Board regulations.

2719 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on
2720 land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural
2721 products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's
2722 licensees shall be treated as distillers for all purposes of this ~~title~~ subtitle except as otherwise provided in
2723 this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an
2724 agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use.
2725 For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
2726 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
2727 shall otherwise limit or affect local zoning authority.

2728 3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver
2729 or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
2730 licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the
2731 Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the
2732 brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that
2733 not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is
2734 manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers
2735 and other reusable containers, for off-premises consumption.

2736 4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer
2737 per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned
2738 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
2739 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the
2740 farm. The licensed premises shall be limited to the portion of the farm on which agricultural products,
2741 including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown
2742 and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any
2743 residence and the curtilage thereof. However, the Board may, with notice to the local governing body in

2744 accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part
2745 of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned
2746 as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery
2747 use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
2748 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
2749 shall otherwise limit or affect local zoning authority.

2750 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except
2751 as otherwise provided in this subdivision.

2752 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver
2753 or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell
2754 the wine so manufactured at wholesale for the purpose of resale, and to persons outside the
2755 Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the
2756 licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits
2757 from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the
2758 licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with
2759 Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit
2760 issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license
2761 for on-premises consumption or in closed containers for off-premises consumption, provided that any
2762 brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any
2763 wine sold for on-premises consumption is manufactured on the licensed premises.

2764 6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21
2765 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board
2766 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at
2767 wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee
2768 may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in
2769 accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose
2770 of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the

2771 premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses
2772 located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~
2773 subtitle, a farm winery license shall be designated either as a Class A or Class B farm winery license in
2774 accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in
2775 accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking
2776 facility.

2777 Such licenses shall also authorize the licensee to sell wine at retail at the places of business
2778 designated in the licenses, which may include no more than five additional retail establishments of the
2779 licensee. Wine may be sold at these business places for on-premises consumption and in closed containers
2780 for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is
2781 purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served
2782 and sold for on-premises consumption at these business places.

2783 7. Wine importer's licenses, which shall authorize persons located within or outside the
2784 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed
2785 containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of
2786 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

2787 8. Beer importer's licenses, which shall authorize persons located within or outside the
2788 Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers,
2789 to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to
2790 persons outside the Commonwealth for resale outside the Commonwealth.

2791 **§ 4.1-206.2. Wholesale licenses.**

2792 The Board may grant the following wholesale licenses:

2793 1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
2794 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the
2795 license, in accordance with Board regulations, in closed containers to (i) persons licensed under this
2796 chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered

2797 under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii)
2798 persons outside the Commonwealth for resale outside the Commonwealth.

2799 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth
2800 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's
2801 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

2802 2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall
2803 authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or
2804 ship the wine from one or more premises identified in the license, in accordance with Board regulations,
2805 in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside
2806 the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for
2807 sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for
2808 ports of call of a foreign country or another state.

2809 No wholesale wine licensee shall purchase wine for resale from a person outside the
2810 Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a
2811 wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's
2812 license.

2813 3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation
2814 created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services
2815 to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery
2816 or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall
2817 provide such distribution services in accordance with the terms of a written agreement approved by the
2818 corporation between it and the winery or farm winery licensee, which shall comply with the provisions of
2819 this ~~title~~ subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject
2820 to, all laws and regulations governing wholesale wine licenses granted under subdivision 2.

2821 **§ 4.1-206.3. (Effective until July 1, 2022) Retail licenses.**

2822 A. The Board may grant the following mixed beverages licenses:

2823 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
2824 beverages for on-premises consumption in dining areas and other designated areas of such restaurant or
2825 off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and
2826 (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and
2827 nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent
2828 of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other
2829 designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises,
2830 which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
2831 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such
2832 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision
2833 A 5 of § 4.1-201.

2834 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent
2835 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
2836 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed
2837 beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or
2838 off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the
2839 Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel
2840 only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex,
2841 the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within
2842 the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from
2843 keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

2844 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
2845 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
2846 another city with which it has an agreement for reciprocal dining privileges, such license shall also
2847 authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption
2848 and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid
2849 ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club

2850 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the
2851 Board and located on another portion of the premises of the same hotel or motel building, this fact shall
2852 not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's
2853 gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its
2854 members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts
2855 from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be
2856 excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2857 If the restaurant is located on the premises of and operated by a municipal golf course, the Board
2858 shall recognize the seasonal nature of the business and waive any applicable monthly food sales
2859 requirements for those months when weather conditions may reduce patronage of the golf course, provided
2860 that prepared food, including meals, is available to patrons during the same months. The gross receipts
2861 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
2862 served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross
2863 receipts from the sale of mixed beverages and food on an annualized basis.

2864 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
2865 shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts
2866 from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-
2867 premises consumption in areas upon the licensed premises approved by the Board and other designated
2868 areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession
2869 and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being
2870 provided in bedrooms and private guest rooms.

2871 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
2872 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for
2873 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
2874 additional license pursuant to § 4.1-233.1.

2875 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in
2876 the business of providing food and beverages to others for service at private gatherings or at special events,

2877 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The
2878 annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages
2879 served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the
2880 gross receipts from the sale of mixed beverages and food.

2881 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly
2882 engaged in the business of providing food and beverages to others for service at private gatherings or at
2883 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell
2884 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of
2885 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred
2886 to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed
2887 beverages and food.

2888 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
2889 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
2890 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
2891 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
2892 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier
2893 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and
2894 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic
2895 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air
2896 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic
2897 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the
2898 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be
2899 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to
2900 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
2901 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
2902 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2903 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell
2904 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during
2905 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all
2906 dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-
2907 premises consumption. Such license may be granted to persons operating food concessions at an outdoor
2908 motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a
2909 track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of
2910 the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
2911 premises in all areas and locations covered by the license. The granting of a license pursuant to this
2912 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
2913 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
2914 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2915 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
2916 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
2917 shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining
2918 areas of the restaurant or off-premises consumption. Such license may be granted only to persons who
2919 operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the
2920 sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and
2921 alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize
2922 the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed
2923 containers for off-premises consumption; however, the licensee shall be required to pay the local fee
2924 required for such additional license pursuant to § 4.1-233.1.

2925 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee
2926 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable
2927 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,
2928 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the
2929 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for

2930 on-premises consumption or in closed containers for off-premises consumption; however, the licensee
2931 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such
2932 licenses may be granted to the following:

2933 a. Corporations or associations operating a performing arts facility, provided the performing arts
2934 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,
2935 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in
2936 accordance with historic preservation standards;

2937 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk
2938 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-
2939 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity
2940 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;
2941 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the
2942 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum
2943 established by Board regulations for mixed beverage restaurants;

2944 c. Persons operating food concessions at any performing arts facility located in the City of
2945 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
2946 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in
2947 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

2948 d. Persons operating food concessions at any performing arts facility located in the arts and cultural
2949 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona
2950 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)
2951 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts
2952 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
2953 served on the premises that meet or exceed the monthly minimum established by Board regulations for
2954 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

2955 e. Persons operating food concessions at any multipurpose theater located in the historical district
2956 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity
2957 and (ii) has a total capacity in excess of 100 patrons;

2958 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
2959 similar facility that has seating for more than 20,000 persons and is located in Prince William County or
2960 the City of Virginia Beach;

2961 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
2962 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the
2963 City of Portsmouth; or

2964 h. Persons operating food concessions at any corporate and performing arts facility located in
2965 Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
2966 long-term lease, management, or concession agreement, the original term of which was more than one
2967 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the
2968 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
2969 licensed premises approved by the Board.

2970 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
2971 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
2972 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
2973 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
2974 beverage caterer at the same business premises designated in the license, with a common alcoholic
2975 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
2976 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
2977 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this
2978 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
2979 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
2980 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2981 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
2982 in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
2983 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
2984 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
2985 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
2986 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
2987 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
2988 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
2989 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
2990 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
2991 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2992 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §
2993 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption
2994 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and
2995 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member
2996 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the
2997 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied
2998 and utilized as such.

2999 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the
3000 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof
3001 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or
3002 indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's
3003 premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

3004 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
3005 association governing a commercial lifestyle center, which shall authorize any retail on-premises
3006 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
3007 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of

3008 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
3009 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
3010 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
3011 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises
3012 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
3013 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
3014 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
3015 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
3016 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
3017 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
3018 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3019 ~~title~~ subtitle and Board regulations.

3020 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve
3021 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such
3022 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of
3023 meals; (ii) that is located on property owned by the United States government or an agency thereof and
3024 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of
3025 food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the
3026 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
3027 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include
3028 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may
3029 have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas
3030 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
3031 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting
3032 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to
3033 sell and serve wine and beer for on-premises consumption or in closed containers for off-premises

3034 consumption; however, the licensee shall be required to pay the local fee required for such additional
3035 license pursuant to § 4.1-233.1.

3036 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
3037 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
3038 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and
3039 objects significant in American history and culture; (iii) persons operating an agricultural event and
3040 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
3041 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
3042 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events
3043 conducted on the premises of a museum for historic interpretation that is owned and operated by the
3044 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a
3045 bona fide lease, the original term of which was for more than one year's duration. Such license shall
3046 authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-
3047 premises consumption in areas upon the licensed premises approved by the Board.

3048 B. The Board may grant an on-and-off-premises wine and beer license to the following:

3049 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in
3050 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without
3051 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest
3052 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.
3053 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize
3054 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate
3055 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic
3056 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight
3057 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the
3058 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at
3059 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in
3060 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are

3061 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,
3062 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by
3063 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
3064 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
3065 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control
3066 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved
3067 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3068 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients
3069 for their on-premises consumption only in such rooms, provided the consent of the patient's attending
3070 physician is first obtained or (ii) in closed containers for off-premises consumption.

3071 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
3072 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)
3073 the grocery store is located in any town or in a rural area outside the corporate limits of any city or town
3074 and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists
3075 and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

3076 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer
3077 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,
3078 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for
3079 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
3080 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
3081 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
3082 by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums,
3083 racetracks, or similar facilities.

3084 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
3085 during the performance of any event to patrons within all seating areas, concourses, walkways, or
3086 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
3087 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for

3088 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
3089 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.
3090 Such licenses may be granted to persons operating food concessions at any outdoor performing arts
3091 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in
3092 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500
3093 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or
3094 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500
3095 persons and is located in Henrico County.

3096 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to
3097 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
3098 and such additional locations designated by the Board in such facilities (i) in closed containers for off-
3099 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal
3100 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume
3101 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
3102 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition
3103 halls, convention centers, or similar facilities located in any county operating under the urban county
3104 executive form of government or any city that is completely surrounded by such county. For purposes of
3105 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting
3106 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
3107 of floor space.

3108 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during
3109 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession
3110 areas, dining areas, and such additional locations designated by the Board in such facilities, for on-
3111 premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to
3112 this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
3113 licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural
3114 Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

3115 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
3116 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
3117 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
3118 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
3119 and utilized as such.

3120 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
3121 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
3122 licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3)
3123 of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the
3124 consuming public about historic beer products. The privileges of this license shall be limited to the
3125 premises of the museum, regularly occupied and utilized as such.

3126 C. The Board may grant the following off-premises wine and beer licenses:

3127 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery
3128 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina
3129 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine
3130 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-
3131 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-
3132 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine
3133 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The
3134 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the
3135 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With
3136 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or
3137 authorized representatives of such licensees may participate in such tastings, including the pouring of
3138 samples. The licensee shall comply with any food inventory and sales volume requirements established
3139 by Board regulation.

3140 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
3141 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,

3142 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
3143 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3144 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed
3145 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.
3146 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
3147 sold.

3148 D. The Board may grant the following banquet, special event, and tasting licenses:

3149 1. Per-day event licenses.

3150 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations
3151 or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
3152 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or
3153 areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be
3154 authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
3155 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such
3156 fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship
3157 such wine, in accordance with Board regulations, in closed containers to persons located within the
3158 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each
3159 banquet or special event. For the purposes of this subdivision, when the location named in the original
3160 application for a license is outdoors, the application may also name an alternative location in the event of
3161 inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a
3162 retail wine and beer license.

3163 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association
3164 in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-
3165 premises consumption in areas approved by the Board on the premises of the place designated in the
3166 license. A separate license shall be required for each day of each special event.

3167 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall
3168 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members

3169 and their guests in areas approved by the Board on the club premises. A separate license shall be required
3170 for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
3171 year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
3172 obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall
3173 be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

3174 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
3175 of the type specified in the license in designated areas at events held by the licensee. A tasting license
3176 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
3177 beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting
3178 license shall be required for conduct authorized by § 4.1-201.1.

3179 2. Annual licenses.

3180 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable
3181 membership organizations that are exempt from state and federal taxation and in charge of banquets
3182 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and
3183 beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
3184 or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
3185 For the purposes of this subdivision, when the location named in the original application for a license is
3186 outdoors, the application may also name an alternative location in the event of inclement weather.
3187 However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer
3188 license.

3189 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
3190 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
3191 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests
3192 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
3193 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
3194 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
3195 station or both, regularly occupied as such and recognized by the governing body of the county, city, or

3196 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
3197 than a volunteer fire or volunteer emergency medical services agency station, provided such other
3198 premises are occupied and under the control of the volunteer fire department or volunteer emergency
3199 medical services agency while the privileges of its license are being exercised.

3200 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or
3201 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic
3202 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)
3203 any permanent retail on-premises licensee that is located within the area designated by the Board for the
3204 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for
3205 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and
3206 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such
3207 businesses. In determining the designated area for the designated outdoor refreshment area, the Board
3208 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events
3209 per year, and the duration of any event shall not exceed three consecutive days. However, the Board may
3210 increase the frequency and duration of events after adoption of an ordinance by a locality requesting such
3211 increase in frequency and duration. Such ordinance shall include the size and scope of the area within
3212 which such events will be held, a public safety plan, and any other considerations deemed necessary by
3213 the Board. Such limitations on the number of events that may be held shall not apply during the effective
3214 dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet
3215 a public health emergency and that effectively reduces allowable restaurant seating capacity; however,
3216 designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this
3217 ~~title~~ subtitle and Board regulations and shall provide notice to the Board regarding the days and times
3218 during which the privileges of the license will be exercised. Only alcoholic beverages purchased from
3219 permanent retail on-premises licensees located within the designated area may be consumed at the event,
3220 and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that
3221 clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was
3222 purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor

3223 refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage
3224 clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be
3225 required for this purpose. The designated outdoor refreshment area licensee shall provide adequate
3226 security for the event to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board
3227 regulations.

3228 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic,
3229 or charitable membership organizations that are exempt from state and federal taxation and in charge of
3230 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve
3231 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the
3232 place designated in the license. Such license shall authorize the licensee to conduct no more than 12
3233 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically
3234 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;
3235 however, the licensee shall be required to pay the local fee required for such additional license pursuant
3236 to § 4.1-233.1.

3237 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt,
3238 and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired
3239 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,
3240 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3241 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,
3242 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

3243 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
3244 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine
3245 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
3246 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
3247 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
3248 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
3249 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

3250 E. The Board may grant a marketplace license to persons operating a business enterprise of which
3251 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
3252 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations
3253 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or
3254 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such
3255 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace
3256 license, the applicant's business enterprise must (i) provide a single category of goods or services in a
3257 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in
3258 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic
3259 beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all
3260 employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to
3261 be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the
3262 Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average
3263 amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of
3264 time that the business has been in operation; and (d) any other requirements deemed necessary by the
3265 Board to protect the public health, safety, and welfare.

3266 F. The Board may grant the following shipper, bottler, and related licenses:

3267 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §
3268 4.1-209.1.

3269 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside
3270 the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations,
3271 in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for
3272 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale
3273 requirement established by Board regulations.

3274 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and
3275 shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board
3276 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under

3277 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons
3278 outside the Commonwealth for resale outside the Commonwealth.

3279 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with
3280 a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
3281 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner;
3282 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
3283 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
3284 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
3285 direct or indirect, in the business for which any fulfillment warehouse license is issued.

3286 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
3287 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of
3288 business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders
3289 for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer
3290 may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order
3291 for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment.
3292 Marketing portal licensees may also accept payment on behalf of the shipper.

3293 **§ 4.1-206.3. (Effective July 1, 2022) Retail licenses.**

3294 A. The Board may grant the following mixed beverages licenses:

3295 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
3296 beverages for consumption in dining areas and other designated areas of such restaurant. Such license may
3297 be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food
3298 cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises,
3299 after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed
3300 beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor
3301 dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have
3302 more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are

3303 under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall
3304 not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3305 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent
3306 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
3307 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed
3308 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits
3309 packaged in original closed containers purchased from the Board for on-premises consumption to
3310 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
3311 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
3312 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
3313 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
3314 lawfully acquired spirits in bedrooms or private rooms.

3315 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
3316 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
3317 another city with which it has an agreement for reciprocal dining privileges, such license shall also
3318 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell
3319 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50
3320 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food
3321 in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located
3322 on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the
3323 granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts
3324 from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and
3325 guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale
3326 of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any
3327 consideration of the qualifications of such restaurant for a license from the Board.

3328 If the restaurant is located on the premises of and operated by a municipal golf course, the Board
3329 shall recognize the seasonal nature of the business and waive any applicable monthly food sales

3330 requirements for those months when weather conditions may reduce patronage of the golf course, provided
3331 that prepared food, including meals, is available to patrons during the same months. The gross receipts
3332 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
3333 served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross
3334 receipts from the sale of mixed beverages and food on an annualized basis.

3335 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
3336 shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard
3337 to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas
3338 upon the licensed premises approved by the Board and other designated areas of the resort, including
3339 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully
3340 acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and
3341 private guest rooms.

3342 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
3343 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for
3344 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
3345 additional license pursuant to § 4.1-233.1.

3346 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in
3347 the business of providing food and beverages to others for service at private gatherings or at special events,
3348 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The
3349 annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages
3350 served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the
3351 gross receipts from the sale of mixed beverages and food.

3352 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly
3353 engaged in the business of providing food and beverages to others for service at private gatherings or at
3354 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell
3355 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of
3356 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred

3357 to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed
3358 beverages and food.

3359 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
3360 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
3361 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
3362 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
3363 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier
3364 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and
3365 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic
3366 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air
3367 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic
3368 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the
3369 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be
3370 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to
3371 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
3372 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
3373 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

3374 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell
3375 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during
3376 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all
3377 dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-
3378 premises consumption. Such license may be granted to persons operating food concessions at an outdoor
3379 motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a
3380 track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of
3381 the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
3382 premises in all areas and locations covered by the license. The granting of a license pursuant to this
3383 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer

3384 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
3385 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

3386 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
3387 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
3388 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
3389 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the
3390 sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed
3391 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license
3392 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve
3393 wine and beer for on-premises consumption or in closed containers for off-premises consumption;
3394 however, the licensee shall be required to pay the local fee required for such additional license pursuant
3395 to § 4.1-233.1.

3396 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee
3397 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable
3398 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,
3399 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the
3400 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for
3401 on-premises consumption or in closed containers for off-premises consumption; however, the licensee
3402 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such
3403 licenses may be granted to the following:

3404 a. Corporations or associations operating a performing arts facility, provided the performing arts
3405 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,
3406 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in
3407 accordance with historic preservation standards;

3408 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk
3409 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-
3410 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity

3411 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;
3412 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the
3413 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum
3414 established by Board regulations for mixed beverage restaurants;

3415 c. Persons operating food concessions at any performing arts facility located in the City of
3416 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
3417 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in
3418 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

3419 d. Persons operating food concessions at any performing arts facility located in the arts and cultural
3420 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona
3421 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)
3422 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts
3423 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
3424 served on the premises that meet or exceed the monthly minimum established by Board regulations for
3425 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

3426 e. Persons operating food concessions at any multipurpose theater located in the historical district
3427 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity
3428 and (ii) has a total capacity in excess of 100 patrons;

3429 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
3430 similar facility that has seating for more than 20,000 persons and is located in Prince William County or
3431 the City of Virginia Beach;

3432 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
3433 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the
3434 City of Portsmouth; or

3435 h. Persons operating food concessions at any corporate and performing arts facility located in
3436 Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
3437 long-term lease, management, or concession agreement, the original term of which was more than one

3438 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the
3439 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
3440 licensed premises approved by the Board.

3441 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
3442 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
3443 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
3444 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
3445 beverage caterer at the same business premises designated in the license, with a common alcoholic
3446 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
3447 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
3448 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this
3449 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
3450 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
3451 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

3452 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
3453 in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
3454 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
3455 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
3456 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
3457 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
3458 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
3459 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
3460 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
3461 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
3462 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3463 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §
3464 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption

3465 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and
3466 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member
3467 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the
3468 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied
3469 and utilized as such.

3470 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the
3471 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof
3472 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or
3473 indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's
3474 premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

3475 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
3476 association governing a commercial lifestyle center, which shall authorize any retail on-premises
3477 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
3478 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of
3479 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
3480 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
3481 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
3482 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises
3483 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
3484 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
3485 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
3486 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
3487 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
3488 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
3489 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3490 ~~the~~ subtitle and Board regulations.

3491 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve
3492 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such
3493 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of
3494 meals; (ii) that is located on property owned by the United States government or an agency thereof and
3495 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of
3496 food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the
3497 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
3498 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include
3499 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may
3500 have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas
3501 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
3502 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting
3503 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to
3504 sell and serve wine and beer for on-premises consumption or in closed containers for off-premises
3505 consumption; however, the licensee shall be required to pay the local fee required for such additional
3506 license pursuant to § 4.1-233.1.

3507 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
3508 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
3509 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and
3510 objects significant in American history and culture; (iii) persons operating an agricultural event and
3511 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
3512 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
3513 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events
3514 conducted on the premises of a museum for historic interpretation that is owned and operated by the
3515 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a
3516 bona fide lease, the original term of which was for more than one year's duration. Such license shall

3517 authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-
3518 premises consumption in areas upon the licensed premises approved by the Board.

3519 B. The Board may grant an on-and-off-premises wine and beer license to the following:

3520 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in
3521 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without
3522 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest
3523 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.
3524 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize
3525 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate
3526 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic
3527 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight
3528 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the
3529 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at
3530 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in
3531 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are
3532 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,
3533 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by
3534 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
3535 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
3536 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control
3537 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved
3538 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3539 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients
3540 for their on-premises consumption only in such rooms, provided the consent of the patient's attending
3541 physician is first obtained or (ii) in closed containers for off-premises consumption.

3542 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
3543 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)

3544 the grocery store is located in any town or in a rural area outside the corporate limits of any city or town
3545 and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists
3546 and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

3547 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer
3548 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,
3549 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for
3550 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
3551 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
3552 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
3553 by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums,
3554 racetracks, or similar facilities.

3555 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
3556 during the performance of any event to patrons within all seating areas, concourses, walkways, or
3557 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
3558 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for
3559 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
3560 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.
3561 Such licenses may be granted to persons operating food concessions at any outdoor performing arts
3562 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in
3563 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500
3564 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or
3565 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500
3566 persons and is located in Henrico County.

3567 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to
3568 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
3569 and such additional locations designated by the Board in such facilities (i) in closed containers for off-
3570 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal

3571 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume
3572 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
3573 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition
3574 halls, convention centers, or similar facilities located in any county operating under the urban county
3575 executive form of government or any city that is completely surrounded by such county. For purposes of
3576 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting
3577 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
3578 of floor space.

3579 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during
3580 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession
3581 areas, dining areas, and such additional locations designated by the Board in such facilities, for on-
3582 premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to
3583 this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
3584 licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural
3585 Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

3586 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
3587 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
3588 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
3589 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
3590 and utilized as such.

3591 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
3592 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
3593 licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3)
3594 of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the
3595 consuming public about historic beer products. The privileges of this license shall be limited to the
3596 premises of the museum, regularly occupied and utilized as such.

3597 C. The Board may grant the following off-premises wine and beer licenses:

3598 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery
3599 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina
3600 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine
3601 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-
3602 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-
3603 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine
3604 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The
3605 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the
3606 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With
3607 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or
3608 authorized representatives of such licensees may participate in such tastings, including the pouring of
3609 samples. The licensee shall comply with any food inventory and sales volume requirements established
3610 by Board regulation.

3611 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
3612 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,
3613 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
3614 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3615 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed
3616 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.
3617 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
3618 sold.

3619 D. The Board may grant the following banquet, special event, and tasting licenses:

3620 1. Per-day event licenses.

3621 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations
3622 or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
3623 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or
3624 areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be

3625 authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
3626 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such
3627 fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship
3628 such wine, in accordance with Board regulations, in closed containers to persons located within the
3629 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each
3630 banquet or special event. For the purposes of this subdivision, when the location named in the original
3631 application for a license is outdoors, the application may also name an alternative location in the event of
3632 inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a
3633 retail wine and beer license.

3634 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association
3635 in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-
3636 premises consumption in areas approved by the Board on the premises of the place designated in the
3637 license. A separate license shall be required for each day of each special event.

3638 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall
3639 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members
3640 and their guests in areas approved by the Board on the club premises. A separate license shall be required
3641 for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
3642 year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
3643 obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall
3644 be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

3645 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
3646 of the type specified in the license in designated areas at events held by the licensee. A tasting license
3647 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
3648 beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting
3649 license shall be required for conduct authorized by § 4.1-201.1.

3650 2. Annual licenses.

3651 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable
3652 membership organizations that are exempt from state and federal taxation and in charge of banquets
3653 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and
3654 beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
3655 or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
3656 For the purposes of this subdivision, when the location named in the original application for a license is
3657 outdoors, the application may also name an alternative location in the event of inclement weather.
3658 However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer
3659 license.

3660 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
3661 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
3662 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests
3663 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
3664 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
3665 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
3666 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
3667 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
3668 than a volunteer fire or volunteer emergency medical services agency station, provided such other
3669 premises are occupied and under the control of the volunteer fire department or volunteer emergency
3670 medical services agency while the privileges of its license are being exercised.

3671 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or
3672 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic
3673 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)
3674 any permanent retail on-premises licensee that is located within the area designated by the Board for the
3675 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for
3676 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and
3677 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such

3678 businesses. In determining the designated area for the designated outdoor refreshment area, the Board
3679 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events
3680 per year, and the duration of any event shall not exceed three consecutive days. However, the Board may
3681 increase the frequency and duration of events after adoption of an ordinance by a locality requesting such
3682 increase in frequency and duration. Such ordinance shall include the size and scope of the area within
3683 which such events will be held, a public safety plan, and any other considerations deemed necessary by
3684 the Board. Such limitations on the number of events that may be held shall not apply during the effective
3685 dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet
3686 a public health emergency and that effectively reduces allowable restaurant seating capacity; however,
3687 designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this
3688 ~~title subtitle~~ and Board regulations and shall provide notice to the Board regarding the days and times
3689 during which the privileges of the license will be exercised. Only alcoholic beverages purchased from
3690 permanent retail on-premises licensees located within the designated area may be consumed at the event,
3691 and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that
3692 clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was
3693 purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor
3694 refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage
3695 clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be
3696 required for this purpose. The designated outdoor refreshment area licensee shall provide adequate
3697 security for the event to ensure compliance with the applicable provisions of this ~~title subtitle~~ and Board
3698 regulations.

3699 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic,
3700 or charitable membership organizations that are exempt from state and federal taxation and in charge of
3701 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve
3702 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the
3703 place designated in the license. Such license shall authorize the licensee to conduct no more than 12
3704 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically

3705 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;
3706 however, the licensee shall be required to pay the local fee required for such additional license pursuant
3707 to § 4.1-233.1.

3708 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt,
3709 and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired
3710 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,
3711 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3712 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,
3713 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

3714 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
3715 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine
3716 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
3717 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
3718 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
3719 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
3720 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

3721 E. The Board may grant a marketplace license to persons operating a business enterprise of which
3722 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
3723 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations
3724 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or
3725 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such
3726 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace
3727 license, the applicant's business enterprise must (i) provide a single category of goods or services in a
3728 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in
3729 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic
3730 beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all
3731 employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to

3732 be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the
3733 Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average
3734 amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of
3735 time that the business has been in operation; and (d) any other requirements deemed necessary by the
3736 Board to protect the public health, safety, and welfare.

3737 F. The Board may grant the following shipper, bottler, and related licenses:

3738 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §
3739 4.1-209.1.

3740 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside
3741 the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations,
3742 in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for
3743 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale
3744 requirement established by Board regulations.

3745 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and
3746 shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board
3747 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under
3748 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons
3749 outside the Commonwealth for resale outside the Commonwealth.

3750 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with
3751 a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
3752 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner;
3753 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
3754 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
3755 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
3756 direct or indirect, in the business for which any fulfillment warehouse license is issued.

3757 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
3758 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of

3759 business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders
3760 for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer
3761 may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order
3762 for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment.
3763 Marketing portal licensees may also accept payment on behalf of the shipper.

3764 **§ 4.1-212. Permits required in certain instances.**

3765 A. The Board may grant the following permits which shall authorize:

3766 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine
3767 and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

3768 2. Any person having any interest in the manufacture, distribution or sale of spirits or other
3769 alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected
3770 with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic
3771 beverages.

3772 3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any
3773 license to sell and which shall be used for culinary purposes only.

3774 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
3775 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
3776 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
3777 residence to the Commonwealth in accordance with § 4.1-310.

3778 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling
3779 alcohol.

3780 6. The release of alcoholic beverages not under United States custom bonds or internal revenue
3781 bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive
3782 them within or outside of the Commonwealth.

3783 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery
3784 to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

3785 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for
3786 delivery in accordance with subsection C of § 4.1-132.

3787 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary
3788 appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued
3789 to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems
3790 appropriate.

3791 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which
3792 may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien
3793 or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff,
3794 personal representative, receiver or other officer acting under authority of a court having jurisdiction in
3795 the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia
3796 Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit
3797 to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale
3798 outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

3799 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the
3800 premises or property of a person licensed by the Board and who has become lawfully entitled to the
3801 possession of the licensed premises to continue to operate the establishment to the same extent as a person
3802 holding such licenses for a period not to exceed 60 days or for such longer period as determined by the
3803 Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous
3804 owner to the extent determined by the Board. Such temporary permit may be issued in advance,
3805 conditioned on the above requirements.

3806 12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal
3807 revenue bond in warehouses located in the Commonwealth.

3808 13. The storage of wine by a licensed winery or farm winery under internal revenue bond in
3809 warehouses located in the Commonwealth.

3810 14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has
3811 filed an application for a permit in which the applicant represents (i) that he or she is under contract to

3812 conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the
3813 application; (ii) that such contract grants to the applicant the authority to act as the authorized
3814 representative of such manufacturer or wholesaler; and (iii) that such contract contains an
3815 acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any
3816 violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall
3817 be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-
3818 229.

3819 15. Any person who, through contract, lease, concession, license, management or similar
3820 agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the
3821 premises of a person licensed by the Board to continue to operate the establishment to the same extent as
3822 a person holding such licenses, provided such person has made application to the Board for a license at
3823 the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner
3824 to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period
3825 as may be necessary as determined by the Board pending the completion of the processing of the
3826 permittee's license application. No permit shall be issued without the written consent of the previous
3827 licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes
3828 any state or local taxes, or has any pending charges for violation of this ~~title~~ subtitle or any Board
3829 regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any
3830 penalty for the pending charges. An application for a permit may be filed prior to the effective date of the
3831 contract, in which case the permit when issued shall become effective on the effective date of the contract.
3832 Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the
3833 provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held
3834 liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or
3835 omissions of, the permittee.

3836 16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting
3837 individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and

3838 authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole
3839 purpose of remitting such fees to the licensee.

3840 17. Any tour company guiding individuals for compensation on a walking tour to one or more
3841 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one
3842 fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a
3843 fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company
3844 shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the
3845 tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide
3846 and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration
3847 of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

3848 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a
3849 subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the
3850 wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-
3851 216.

3852 **§ 4.1-213. Manufacture and sale of cider.**

3853 A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board,
3854 (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

3855 B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver
3856 and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee,
3857 (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the
3858 Commonwealth for resale outside the Commonwealth.

3859 C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner
3860 and to the same persons, and subject to the same limitations and conditions, as such license authorizes
3861 him to sell other alcoholic beverages.

3862 D. Cider containing less than seven percent of alcohol by volume may be sold in any containers
3863 that comply with federal regulations for wine or beer, provided such containers are labeled in accordance
3864 with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any

3865 containers that comply with federal regulations for wine, provided such containers are labeled in
3866 accordance with Board regulations.

3867 E. No additional license fees shall be charged for the privilege of handling cider.

3868 F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold,
3869 or both, in the Commonwealth.

3870 G. The Board shall adopt regulations relating to the manufacture, possession, transportation and
3871 sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale
3872 of cider and to ensure that the markup required to be paid will be collected.

3873 H. For the purposes of this section:

3874 "Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must
3875 before or during fermentation.

3876 "Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural
3877 sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without
3878 chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of
3879 chaptalization. Cider shall be treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise
3880 provided in this ~~title~~ subtitle or Board regulations.

3881 I. This section shall not limit the privileges set forth in subdivision 8 of § 4.1-200, nor shall any
3882 person be denied the privilege of manufacturing and selling sweet cider.

3883 **§ 4.1-215. Limitation on manufacturers, bottlers, and wholesalers; exemptions.**

3884 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages
3885 shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed
3886 in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii)
3887 partnership or corporation, where any partner or stockholder is an officer or director of any such
3888 manufacturer, bottler, or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns
3889 or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of
3890 alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial
3891 interest in a corporation which has a retail license as a result of a holding company, which owns or has an

3892 interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be
3893 granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under
3894 common control, by stock ownership or otherwise.

3895 2. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of wine or malt
3896 beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not,
3897 may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the
3898 event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for
3899 the purposes of featuring and educating the consuming public about wine or malt beverage products. Such
3900 manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events
3901 per year without regard to the number of wineries or breweries owned or operated by such manufacturer
3902 or by any parent, subsidiary, or company under common control with such manufacturer. Where the event
3903 occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the
3904 event.

3905 3. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of distilled spirits,
3906 whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided
3907 in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place
3908 approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming
3909 public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight
3910 banquet licenses for such special events per year. Where the event occurs on no more than three
3911 consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license
3912 shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic
3913 beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample
3914 shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case
3915 a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces
3916 of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer
3917 from serving such samples as part of a mixed beverage.

3918 B. This section shall not apply to:

- 3919 1. Corporations operating dining cars, buffet cars, club cars, or boats;
- 3920 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of §
3921 4.1-201;
- 3922 3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;
- 3923 4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise
3924 furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license
3925 or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person
3926 to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or
3927 wholesalers;
- 3928 5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-
3929 206.3 or § 4.1-209.1 or 4.1-212.1; or
- 3930 6. One out-of-state winery, not under common control or ownership with any other winery, that is
3931 under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long
3932 as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the
3933 restaurant before it is offered for sale to consumers.
- 3934 C. The General Assembly finds that it is necessary and proper to require a separation between
3935 manufacturing interests, wholesale interests, and retail interests in the production and distribution of
3936 alcoholic beverages in order to prevent suppliers from dominating local markets through vertical
3937 integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing
3938 techniques. The exceptions established by this section to the general prohibition against tied interests shall
3939 be limited to their express terms so as not to undermine the general prohibition and shall therefore be
3940 construed accordingly.
- 3941 **§ 4.1-216. Further limitations on manufacturers, bottlers, importers, brokers or wholesalers;**
3942 **ownership interests prohibited; exceptions; prohibited trade practices.**
- 3943 A. As used in this section:
- 3944 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who
3945 regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for

3946 resale and arranges for or consummates such transactions with persons in the Commonwealth to whom
3947 such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the
3948 provisions of this ~~title~~ subtitle.

3949 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any
3950 officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

3951 B. Except as provided in this ~~title~~ subtitle, no manufacturer, importer, bottler, broker or wholesaler
3952 of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial
3953 interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises
3954 where the business of a retail licensee is conducted.

3955 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or
3956 wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other
3957 merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude
3958 from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or
3959 wholesalers.

3960 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares
3961 of stock of which are sold to the general public on any national or local stock exchange, shall not be
3962 deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3963 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a
3964 financing corporation, may participate in financing the business of a wholesale licensee in the
3965 Commonwealth by providing debt or equity capital or both but only if done in accordance with the
3966 provisions of this subsection.

3967 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing
3968 corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained
3969 pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity
3970 capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner
3971 is the general partner and the financing corporation is a limited partner. If the general partner defaults on
3972 any financial obligation to the limited partner, which default has been specifically defined in the

3973 partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when
3974 due to the financing corporation as specifically defined in the loan documents, then, and only then, shall
3975 such financing corporation be allowed to take title to the business of the wholesale licensee.
3976 Notwithstanding any other law to the contrary and provided written notice has been given to the Board
3977 within two business days after taking title, the wholesale licensee may be managed and operated by such
3978 financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180
3979 days as if the license had been issued in the name of the financing corporation. On or before the expiration
3980 of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's
3981 business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
3982 terminated. The financing corporation may not participate in financing the transfer of ownership to the
3983 new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date
3984 of the original financing transaction; except where a transfer takes place before the expiration of the eighth
3985 full year following the effective date of the original financing transaction in which case the financing
3986 corporation may finance such transfer as long as the new owner is required to return such debt or equity
3987 capital within the originally prescribed eight-year period. The financing corporation may exercise its right
3988 to take title to, manage and operate the business of, the wholesale licensee only once during such eight-
3989 year period.

3990 b. In any case in which a financing corporation proposes to provide debt or equity capital in order
3991 to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall
3992 first submit an application for a wholesale license in the name of the proposed new owner to the Board.

3993 The Board shall be provided with all documents that pertain to the transaction at the time of the
3994 license application and shall ensure that the application complies with all requirements of law pertaining
3995 to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity
3996 capital and thereby take a limited partnership interest in the applicant entity, the financing corporation
3997 shall not be required to comply with any Virginia residency requirement applicable to the issuance of
3998 wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide
3999 supporting documentation that the following requirements are met prior to issuance of the wholesale

4000 license: (i) the terms and conditions of any debt financing which the financing corporation proposes to
4001 provide are substantially the same as those available in the financial markets to other wholesale licensees
4002 who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction
4003 are such that future profits of the applicant's business shall be distributed annually to the financing
4004 corporation in direct proportion to its percentage of ownership interest received in return for its investment
4005 of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an
4006 ownership interest in the applicant entity through a limited partnership interest and no other arrangement
4007 and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the
4008 financing corporation not later than the end of the eighth full year following the effective date of the
4009 transaction thereby terminating any ownership interest or right thereto of the financing corporation.

4010 Once the Board has issued a wholesale license pursuant to an application filed in accordance with
4011 this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall
4012 be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may
4013 require the licensee to resubmit certifications and documentation.

4014 c. If a financing corporation wishes to provide debt financing, including inventory financing, but
4015 not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale
4016 licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under
4017 the following circumstances and subject to the following conditions: (i) in order to secure such debt
4018 financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of
4019 its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale
4020 licensee; in the event of default, the financing corporation may take title to any assets pledged to secure
4021 such debt but may not take title to the business of the wholesale licensee and may not manage or operate
4022 such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale
4023 licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on
4024 terms and conditions which are substantially the same as those available in the financial markets to other
4025 wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the

4026 licensee or proposed new owner shall certify to the Board and provide supporting documentation that the
4027 requirements of (i) and (ii) of this subdivision 3 c have been met.

4028 Nothing in this section shall eliminate, affect or in any way modify the requirements of law
4029 pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale
4030 licensees or new owners thereof which have received debt financing prior to the enactment of this
4031 subdivision 3 c.

4032 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery
4033 licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery
4034 or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the
4035 provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-
4036 day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may
4037 make sales of alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in
4038 the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery
4039 which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God
4040 or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the
4041 benefit of creditors not in the ordinary course of business.

4042 5. Notwithstanding any provision of this section, including but not limited to those provisions
4043 whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer,
4044 broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement,
4045 with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part
4046 from the premises on which the retail licensee's business is conducted.

4047 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a
4048 royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i)
4049 authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on
4050 authentic historical recipes and identified with brand names owned and trademarked by the historical
4051 preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits

4052 manufactured using such recipes and trademarks, rather than on the sales revenues generated from such
4053 wine, beer, or spirits; and (iii) has been approved by the Board.

4054 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt
4055 from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes
4056 include the preservation, restoration, and protection of a historic community in the Commonwealth that is
4057 the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth
4058 century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail
4059 licenses have been issued by the Board.

4060 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer,
4061 bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or
4062 not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which
4063 the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property,
4064 services or anything of value with which the business of such retail licensee is or may be conducted, or
4065 for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no
4066 transaction permitted under this section or by Board regulation shall be used to require the retail licensee
4067 to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or
4068 wholesalers.

4069 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and
4070 wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling
4071 alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within
4072 these limits owned by or ceded to the United States of America.

4073 The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

4074 **§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil**
4075 **penalties.**

4076 A. As used in this section:

4077 "Alcoholic beverage advertising material" or "advertising material" means any item, other than an
4078 illuminated device, which contains one or more references to a brand of alcoholic beverage and which is

4079 used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and
4080 which otherwise complies with Board regulations.

4081 "Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee,
4082 that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and
4083 distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic
4084 beverage trademarks.

4085 "Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person
4086 that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale
4087 wine and beer licensees in Virginia or, in the case of spirits, to the Board.

4088 B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted
4089 thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy
4090 for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard,
4091 canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less
4092 per item.

4093 C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be
4094 given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment
4095 provided:

- 4096 1. The wholesale value of the advertising material does not exceed \$250 per item, and
- 4097 2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any
4098 wholesale wine or beer licensee.

4099 A retail licensee shall retain for at least two years a record of its procurement of, including any
4100 payments for, such advertising materials along with an invoice or sales ticket containing a description of
4101 the item so purchased or otherwise procured.

4102 D. Except as otherwise provided in this ~~title~~ subchapter, a retail licensee shall not display in the interior
4103 of its licensed establishment any alcoholic beverage advertising materials, other than those that may be
4104 lawfully obtained and displayed in accordance with this section or Board regulation.

4105 E. Nothing in this section shall be construed to prohibit any advertising materials permitted under
4106 Board regulations in effect on January 1, 2007.

4107 **§ 4.1-222. Conditions under which Board may refuse to grant licenses.**

4108 The Board may refuse to grant any license if it has reasonable cause to believe that:

4109 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant
4110 is an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if
4111 the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
4112 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
4113 percent or more of the membership interest of the limited liability company:

4114 a. Is not 21 years of age or older;

4115 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude
4116 under the laws of any state, or of the United States;

4117 c. Has been convicted, within the five years immediately preceding the date of the application for
4118 such license, of a violation of any law applicable to the manufacture, transportation, possession, use or
4119 sale of alcoholic beverages;

4120 d. Is not a person of good moral character and repute;

4121 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have
4122 ownership interests in the business which have not been disclosed;

4123 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
4124 proposed to be licensed;

4125 g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

4126 h. Has demonstrated, either by his police record or by his record as a former licensee of the Board,
4127 a lack of respect for law and order;

4128 i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory
4129 manner;

4130 j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

- 4131 k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of
4132 narcotics;
- 4133 l. Has misrepresented a material fact in applying to the Board for a license;
- 4134 m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or
4135 governmental agency or authority, by making or filing any report, document or tax return required by
4136 statute or regulation which is fraudulent or contains a false representation of a material fact; or has
4137 willfully deceived or attempted to deceive the Board, or any federal, state or local government, or
4138 governmental agency or authority, by making or maintaining business records required by statute or
4139 regulation which are false and fraudulent;
- 4140 n. Is violating or allowing the violation of any provision of this ~~title~~ subtitle in his establishment
4141 at the time his application for a license is pending;
- 4142 o. Is a police officer with police authority in the political subdivision within which the
4143 establishment designated in the application is located;
- 4144 p. Is physically unable to carry on the business for which the application for a license is filed or
4145 has been adjudicated incapacitated; or
- 4146 q. Is a member, agent or employee of the Board.
- 4147 2. The place to be occupied by the applicant:
 - 4148 a. Does not conform to the requirements of the governing body of the county, city or town in which
4149 such place is located with respect to sanitation, health, construction or equipment, or to any similar
4150 requirements established by the laws of the Commonwealth or by Board regulation;
 - 4151 b. Is so located that granting a license and operation thereunder by the applicant would result in
4152 violations of this ~~title~~ subtitle, Board regulations, or violation of the laws of the Commonwealth or local
4153 ordinances relating to peace and good order;
 - 4154 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school
4155 or an institution of higher education; public or private playground or other similar recreational facility; or
4156 any state, local, or federal government-operated facility, that the operation of such place under such license

4157 will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or
4158 institutions;

4159 d. Is so located with respect to any residence or residential area that the operation of such place
4160 under such license will adversely affect real property values or substantially interfere with the usual
4161 quietude and tranquility of such residence or residential area; or

4162 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-
4163 enforcement officers and special agents of the Board are prevented from ready access to and reasonable
4164 observation of any room or area within which alcoholic beverages are to be sold or consumed.

4165 3. The number of licenses existent in the locality is such that the granting of a license is detrimental
4166 to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider
4167 the (i) character of, population of, the number of similar licenses and the number of all licenses existent
4168 in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new
4169 license may have on such county, city, town or neighborhood in conforming with the purposes of this ~~title~~
4170 subtitle; and (iii) objections, if any, which may have been filed by a local governing body or local
4171 residents.

4172 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any
4173 political subdivision thereof, which warrants refusal by the Board to grant any license.

4174 5. The Board is not authorized under this chapter to grant such license.

4175 **§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
4176 **exceptions.**

4177 A. The action of the Board in granting or in refusing to grant any license shall be subject to review
4178 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections
4179 B and C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both
4180 the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the
4181 court.

4182 B. The Board may refuse a hearing on any application for the granting of any retail alcoholic
4183 beverage or mixed beverage license, including a banquet license, provided such:

4184 1. License for the applicant has been refused or revoked within a period of ~~twelve~~ 12 months;
4185 2. License for any premises has been refused or revoked at that location within a period of ~~twelve~~
4186 12 months;
4187 3. Applicant, within a period of ~~twelve~~ 12 months immediately preceding, has permitted a license
4188 granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such license,
4189 there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
4190 alleging a violation of this ~~title~~ subtitle; or

4191 4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the
4192 same location within ~~twelve~~ 12 months of the date of the issuance of the restricted license.

4193 C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time
4194 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
4195 the Board may refuse a hearing on an application for a new license until after the date on which the
4196 suspension period would have been executed had the license not have been permitted to expire.

4197 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

4198 The Board may suspend or revoke any license other than a brewery license, in which case the
4199 Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

4200 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
4201 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
4202 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
4203 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
4204 percent or more of the membership interest of the limited liability company:

4205 a. Has misrepresented a material fact in applying to the Board for such license;

4206 b. Within the five years immediately preceding the date of the hearing held in accordance with §
4207 4.1-227, has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth,
4208 of any county, city, or town in the Commonwealth, of any state, or of the United States, applicable to the
4209 manufacture, transportation, possession, use, or sale of alcoholic beverages; (ii) violated any provision of
4210 Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or

4211 the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with
4212 any regulation, rule, or order of the Board; or (v) failed or refused to comply with any of the conditions
4213 or restrictions of the license granted by the Board;

4214 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
4215 under the laws of any state, or of the United States;

4216 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
4217 other persons have ownership interests in the business ~~which~~ that have not been disclosed;

4218 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
4219 conducted under the license granted by the Board;

4220 f. Has been intoxicated or under the influence of some self-administered drug while upon the
4221 licensed premises;

4222 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
4223 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
4224 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

4225 h. Knowingly employs in the business conducted under such license, as agent, servant, or
4226 employee, other than a busboy, cook, or other kitchen help, any person who has been convicted in any
4227 court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the
4228 Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation,
4229 possession, use, or sale of alcoholic beverages;

4230 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack
4231 of respect for law and order;

4232 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person
4233 whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated,
4234 or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such
4235 licensed premises;

4236 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except
4237 as provided under this ~~title~~ subtitle;

- 4238 1. Is physically unable to carry on the business conducted under such license or has been
4239 adjudicated incapacitated;
- 4240 m. Has allowed any obscene literature, pictures₂ or materials upon the licensed premises;
- 4241 n. Has possessed any illegal gambling apparatus, machine₂ or device upon the licensed premises;
- 4242 o. Has upon the licensed premises (i) illegally possessed, distributed, sold₂ or used, or has
4243 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell₂ or use
4244 marijuana, controlled substances, imitation controlled substances, drug paraphernalia₂ or controlled
4245 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
4246 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
4247 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
4248 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any
4249 conduct related to the operation of the licensed business that facilitates the commission of any of the
4250 offenses set forth herein;
- 4251 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
4252 immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion
4253 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
4254 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
4255 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
4256 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.)
4257 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
4258 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
4259 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
4260 threat to the public safety; or
- 4261 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
4262 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
4263 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
4264 of public property immediately adjacent to the licensed premises.

- 4265 2. The place occupied by the licensee:
 - 4266 a. Does not conform to the requirements of the governing body of the county, city, or town in
 - 4267 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
 - 4268 any similar requirements established by the laws of the Commonwealth or by Board regulations;
 - 4269 b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-
 - 4270 258; or
 - 4271 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
 - 4272 drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs
 - 4273 are regularly used or distributed. The Board may consider the general reputation in the community of such
 - 4274 establishment in addition to any other competent evidence in making such determination.
 - 4275 3. The licensee or any employee of the licensee discriminated against any member of the armed
 - 4276 forces of the United States by prices charged or otherwise.
 - 4277 4. The licensee, his employees, or any entertainer performing on the licensed premises has been
 - 4278 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises
 - 4279 and the licensee allowed such conduct to occur.
 - 4280 5. Any cause exists for which the Board would have been entitled to refuse to grant such license
 - 4281 had the facts been known.
 - 4282 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
 - 4283 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
 - 4284 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
 - 4285 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
 - 4286 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
 - 4287 plan approved by the same locality to settle the outstanding liability.
 - 4288 7. Any other cause authorized by this ~~title~~ subtitle.
- 4289 **§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**
- 4290 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery
 - 4291 licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall

4292 be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act
4293 (§ 2.2-4000 et seq.).

4294 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
4295 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
4296 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
4297 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
4298 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
4299 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
4300 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
4301 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against
4302 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
4303 of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought
4304 within ~~ten~~ 10 working days, notwithstanding anything to the contrary in § 4.1-103.

4305 If the Board fails to provide for inspection or copying under this section for the licensee after a
4306 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
4307 have lawfully been entitled to inspect or copy under this section.

4308 The action of the Board in suspending or revoking any license or in imposing a civil penalty against
4309 the holder of a brewery license shall be subject to judicial review in accordance with the Administrative
4310 Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings
4311 provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court
4312 of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the
4313 circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court
4314 of Appeals. Neither mandamus nor injunction shall lie in any such case.

4315 B. In suspending any license, the Board may impose, as a condition precedent to the removal of
4316 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
4317 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
4318 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty

4319 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
4320 violation or \$5,000 for the second violation occurring within five years immediately preceding the date of
4321 the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited
4322 from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage,
4323 intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first
4324 violation occurring within five years immediately preceding the date of the violation and \$6,000 for a
4325 second violation occurring within five years immediately preceding the date of the second violation in
4326 lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the
4327 licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in
4328 holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

4329 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
4330 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
4331 consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or
4332 applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any
4333 right to a hearing or an appeal under the ~~Virginia~~ Administrative Process Act (§ 2.2-4000 et seq.); and (c)
4334 (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of
4335 the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of
4336 suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

4337 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such
4338 holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-
4339 premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first
4340 violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or
4341 revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed
4342 \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling
4343 beer manufactured by it to the owners of boats registered under the laws of the United States sailing for
4344 ports of call of a foreign country or another state, and to persons outside the Commonwealth.

4345 E. The Board shall, by regulation or written order:

- 4346 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
4347 initial hearing;
- 4348 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
4349 of suspension may be accepted for a first offense occurring within three years immediately preceding the
4350 date of the violation;
- 4351 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
4352 civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees
4353 alcohol server or seller training certified in advance by the Board;
- 4354 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
4355 license and the civil charge acceptable in lieu of such suspension; and
- 4356 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
4357 licensee has had no prior violations within five years immediately preceding the date of the violation. No
4358 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~
4359 subtitle or Board regulations.

4360 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

4361 A. Every person intending to apply for any license authorized by this chapter shall file with the
4362 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
4363 and affirming that all of the information contained therein is true.

4364 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain
4365 a food establishment permit from the Department of Health or an inspection by the Department of
4366 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a
4367 pending application for such permit, or proof of a pending request for such inspection. If the applicant
4368 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof
4369 of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on
4370 the basis of a pending application or inspection, such license shall authorize the licensee to purchase
4371 alcoholic beverages in accordance with the provisions of this ~~title~~ subtitle; however, the licensee shall not
4372 sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

4373 B. In addition, each applicant for a license under the provisions of this chapter, except applicants
4374 for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine
4375 and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
4376 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with
4377 the Board on the front door of the building, place or room where he proposes to engage in such business
4378 for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such
4379 information as required by the Board, including a statement that any objections shall be submitted to the
4380 Board not more than 30 days following initial publication of the notice required pursuant to this
4381 subsection.

4382 The applicant shall also cause notice to be published at least once a week for two consecutive
4383 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
4384 such applicant proposes to engage in such business. Such notice shall contain such information as required
4385 by the Board, including a statement that any objections to the issuance of the license be submitted to the
4386 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and
4387 beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses,
4388 and airplanes, the posting and publishing of notice shall not be required.

4389 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
4390 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts
4391 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal
4392 history records search, which may include a fingerprint-based national criminal history records search, on
4393 each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a
4394 criminal history records search and completed personal data form for officers, directors, nonmanaging
4395 members, or limited partners of any applicant corporation, limited liability company, or limited
4396 partnership.

4397 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall
4398 notify the local governing body of each license application through the county or city attorney or the chief

4399 law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections
4400 to the granting of a license within 30 days of the filing of the application.

4401 C. Each applicant shall pay the required application fee at the time the application is filed. Each
4402 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus
4403 the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the
4404 Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
4405 Investigation or the Central Criminal Records Exchange for each criminal history records search required
4406 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the
4407 application fee shall be \$15. The application fee for banquet special event and mixed beverage special
4408 event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant
4409 to § 4.1-231.1 and shall not be refunded.

4410 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
4411 all licensees shall file and maintain with the Board a current, accurate record of the information required
4412 by the Board pursuant to subsection A and notify the Board of any changes to such information in
4413 accordance with Board regulations.

4414 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
4415 Board. Such permits shall confer upon their holders no authority to make solicitations in the
4416 Commonwealth as otherwise provided by law.

4417 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
4418 for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
4419 by the number of months for which the permit is granted.

4420 F. The Board shall have the authority to increase state license fees from the amounts set forth in §
4421 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on the
4422 basis of the consumer price index and shall not increase fees more than once every three years. Prior to
4423 implementing any state license fee increase, the Board shall provide notice to all licensees and the general
4424 public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any
4425 license affected by the Board's proposed fee increases. Such notice shall be provided on or before

4426 November 1 in any year in which the Board has decided to increase state license fees, and such increases
4427 shall become effective July 1 of the following year.

4428 **§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and**
4429 **automated clearinghouse information.**

4430 A. The Board may accept payment by any commercially acceptable means, including checks,
4431 credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on
4432 a licensee in accordance with this ~~title~~ subtitle. In addition, the Board may assess a service charge for the
4433 use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a
4434 contract with the Department.

4435 B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record
4436 of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and
4437 use such information for future payments of taxes, penalties, other fees, or amounts due for products
4438 purchased from the Board. The Board may assess a service charge as provided in subsection A for any
4439 payments made under this subsection. The Board may procure the services of a third-party vendor for the
4440 secure storage of information collected pursuant to this subsection.

4441 **§ 4.1-300. Illegal manufacture and bottling; penalty.**

4442 A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic
4443 beverages in the Commonwealth without being licensed under this ~~title~~ subtitle to manufacture such
4444 alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer
4445 for sale.

4446 B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the
4447 meaning of this section.

4448 C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

4449 **§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.**

4450 If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~
4451 subtitle, he shall be guilty of a Class 1 misdemeanor.

4452 In the event of a second or subsequent conviction under this section, a jail sentence of no less than
4453 ~~thirty~~ 30 days shall be imposed and in no case be suspended.

4454 **§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

4455 If any person buys alcoholic beverages from any person other than the Board, a government store
4456 or a person authorized under this ~~title~~ subtitle to sell alcoholic beverages, he shall be guilty of a Class 1
4457 misdemeanor.

4458 **§ 4.1-310. Illegal importation, shipment and transportation of alcoholic beverages; penalty;**
4459 **exception.**

4460 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or
4461 brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned
4462 to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the
4463 Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be
4464 manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On
4465 such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

4466 B. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no
4467 wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to
4468 a wholesale wine licensee.

4469 C. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no
4470 beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed
4471 to sell it.

4472 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

4473 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal
4474 possession, or through United States Customs in his accompanying baggage, into the Commonwealth not
4475 for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the
4476 alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation
4477 into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or
4478 household effects of a person relocating his place of residence to the Commonwealth, or (iii) the

4479 possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars,
4480 licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

4481 **§ 4.1-310.1. Delivery of wine or beer to retail licensee.**

4482 Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be
4483 shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to
4484 the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the
4485 wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's
4486 inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-
4487 206.2 shall be exempt from the requirement set forth in clause (ii).

4488 **§ 4.1-320. Illegal advertising; penalty; exception.**

4489 A. Except in accordance with this ~~title~~ subtitle and Board regulations, no person shall advertise in
4490 or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other
4491 than those which may legally be manufactured or sold without a license.

4492 B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic
4493 beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-
4494 112.2 and Board regulations.

4495 C. Except as provided in subsection D, any person convicted of a violation of this section shall be
4496 guilty of a Class 1 misdemeanor.

4497 D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising,
4498 the Board shall give the advertiser written notice to take corrective action to either bring the advertisement
4499 into compliance with this ~~title~~ subtitle and Board regulations or to remove such advertisement. If corrective
4500 action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

4501 E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a
4502 wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic
4503 contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in
4504 racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a
4505 licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms of

4506 the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by
4507 such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not
4508 limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any
4509 trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the
4510 advertisement of beer by the display of such product's name on any airship, which advertising is paid for
4511 by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display
4512 of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or
4513 watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or
4514 racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii)
4515 the sponsorship of an entertainment or cultural event.

4516 **§ 4.1-323. Attempts; aiding or abetting; penalty.**

4517 No person shall attempt to do any of the things prohibited by this ~~title~~ subtitle or to aid or abet
4518 another in doing, or attempting to do, any of the things prohibited by this ~~title~~ subtitle.

4519 On an indictment, information or warrant for the violation of this ~~title~~ subtitle, the jury or the court
4520 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
4521 as if the defendant were solely guilty of such violation.

4522 **§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.**

4523 A. No licensee or any agent or employee of such licensee shall:

4524 1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title~~ subtitle
4525 authorizes him to sell;

4526 2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee
4527 may combine wine or spirits, or both, with beer pursuant to a patron's order;

4528 3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the
4529 manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria
4530 that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine
4531 pursuant to a patron's order;

- 4532 4. Sell alcoholic beverages of a kind which such license or this ~~title~~ subtitle authorizes him to sell,
4533 but to any person other than to those to whom such license or this ~~title~~ subtitle authorizes him to sell;
- 4534 5. Sell alcoholic beverages which such license or this ~~title~~ subtitle authorizes him to sell, but in
4535 any place or in any manner other than such license or this ~~title~~ subtitle authorizes him to sell;
- 4536 6. Sell any alcoholic beverages when forbidden by this ~~title~~ subtitle;
- 4537 7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic
4538 beverages other than that which he is authorized to sell by such license or by this ~~title~~ subtitle;
- 4539 8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or
4540 wholesale beer license;
- 4541 9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the
4542 brand of any beer sold;
- 4543 10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the
4544 seller holds a wholesale wine or farm winery license;
- 4545 11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an
4546 alcohol vaporizing device;
- 4547 12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by
4548 him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved
4549 by the Board pending automatic dispensing and sale of such wine; or
- 4550 13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift
4551 or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase
4552 the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal
4553 or customary price charged for the same alcoholic beverage.
- 4554 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.
- 4555 C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee
4556 from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the
4557 purposes of preparing and selling for on-premises consumption food products with a final alcohol content

4558 of more than one-half of one percent by volume, as long as such food products are sold to and consumed
4559 by persons who are 21 years of age or older.

4560 **§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.**

4561 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee
4562 shall:

4563 1. Sell or serve any alcoholic beverage other than as authorized by law;

4564 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by
4565 law;

4566 3. Allow at the place described in his license the consumption of alcoholic beverages in violation
4567 of this ~~title~~ subtitle;

4568 4. Keep at the place described in his license any alcoholic beverage other than that which he is
4569 licensed to sell;

4570 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

4571 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by
4572 him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink
4573 dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the
4574 Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board
4575 regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee
4576 from premixing containers of sangria, to which spirits may be added, to be served and sold for
4577 consumption on the licensed premises;

4578 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper
4579 with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation
4580 adopted pursuant to subdivision B 11 of § 4.1-111;

4581 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the
4582 purchaser without first advising such purchaser of the difference;

4583 9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages
4584 offered for sale;

4585 10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or
4586 obliterated;

4587 11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the
4588 licensed premises;

4589 12. Allow any striptease act on the licensed premises;

4590 13. Allow persons connected with the licensed business to appear nude or partially nude;

4591 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty
4592 and in a position that is involved in the selling or serving of alcoholic beverages to customers.

4593 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee
4594 from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative
4595 of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of
4596 the Board who represents a distiller, if such samples are provided in accordance with Board regulations
4597 and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of §
4598 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality
4599 control purposes;

4600 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license
4601 whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

4602 The provisions of this subdivision shall not apply to the delivery of:

4603 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic
4604 beverage distilled from rice, barley or sweet potatoes; or

4605 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content
4606 is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and
4607 perishable;

4608 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

4609 17. Conceal any sale or consumption of any alcoholic beverages;

4610 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request
4611 or obstruct special agents of the Board in the discharge of their duties;

4612 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove
4613 any such alcoholic beverages from the premises;

4614 20. Knowingly employ in the licensed business any person who has the general reputation as a
4615 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who
4616 drinks to excess or engages in illegal gambling;

4617 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device,
4618 machine or apparatus;

4619 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a
4620 matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction
4621 set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any
4622 conference, convention, trade show or event held or to be held on the premises of the licensee, when such
4623 gift is made in the course of usual and customary business entertainment and is in no way a shift or device
4624 to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv)
4625 pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by
4626 this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages.

4627 The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision;
4628 or

4629 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift
4630 or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase
4631 the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal
4632 or customary price charged for the same alcoholic beverage.

4633 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

4634 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters,
4635 concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or
4636 theatrical performances, when the performances that are presented are expressing matters of serious
4637 literary, artistic, scientific, or political value.

4638 **§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.**

4639 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or
4640 employee shall consume any alcoholic beverages while on duty and in a position that is involved in the
4641 selling or serving of alcoholic beverages to customers.

4642 The provisions of this subsection shall not prohibit any retail licensee or his designated employee
4643 from (i) consuming product samples or sample servings of beer or wine provided by a representative of a
4644 licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board
4645 regulations and the retail licensee or his designated employee does not violate the provisions of
4646 subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a
4647 customer for quality control purposes.

4648 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its
4649 employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not
4650 be deemed to be agents of the retail wine or beer licensee.

4651 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic
4652 beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so
4653 long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a
4654 person responsible for the planning, preparation or conduct on any conference, convention, trade show or
4655 event held or to be held on the premises of the licensee, when such gift is made in the course of usual and
4656 customary business entertainment and is in no way a shift or device to evade the restriction set forth in
4657 this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201;
4658 or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes
4659 imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and
4660 accurate records of gifts given in accordance with this subsection.

4661 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an
4662 amount not to exceed \$500.

4663 **§ 4.1-329. Illegal advertising materials; penalty.**

4664 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to,
4665 any manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying

4666 for or giving to any person any advertising materials or decorations under circumstances prohibited by
4667 this ~~title~~ subtitle or Board regulations.

4668 Any person found by the Board to have violated this section shall be subject to a civil penalty as
4669 provided in § 4.1-227.

4670 **§ 4.1-336. Contraband beverages and other articles subject to forfeiture.**

4671 All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all
4672 alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages
4673 may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of
4674 this ~~title~~ subtitle, and any dangerous weapons as described in § 18.2-308, which may be used, or which
4675 may be found upon the person or in any vehicle which such person is using, to aid such person in the
4676 unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such
4677 person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature
4678 whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being
4679 unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful
4680 manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

4681 Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for
4682 all such property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§
4683 19.2-386.1 et seq.) of Title 19.2.

4684 **§ 4.1-337. Search warrants.**

4685 A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored,
4686 or in any manner held, used or concealed in a particular house, or other place, in violation of law, the
4687 judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is
4688 made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house
4689 or other place for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued,
4690 directed and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

4691 B. Warrants issued under this ~~title~~ subtitle for the search of any automobile, boat, conveyance or
4692 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or

4693 not, for alcoholic beverages, may be executed in any part of the Commonwealth where they are overtaken
4694 and shall be made returnable before any judge within whose jurisdiction such automobile, boat,
4695 conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be
4696 transported contrary to law.

4697 **§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.**

4698 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
4699 forfeited to the Commonwealth under this chapter shall be as provided in this section.

4700 B. Production of seized property. -- Whenever any article declared contraband under the provisions
4701 of this ~~title~~ subtitle and required to be forfeited to the Commonwealth has been seized, with or without a
4702 warrant, by any officer charged with the enforcement of this ~~title~~ subtitle, he shall produce the contraband
4703 article and any person in whose possession it was found. In those cases where no person is found in
4704 possession of such articles the return shall so state and a copy of the warrant shall be posted on the door
4705 of the buildings or room where the articles were found, or if there is no door, then in any conspicuous
4706 place upon the premises.

4707 In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling
4708 apparatus, for any offense involving their forfeiture, where it is impracticable to remove such distilling
4709 apparatus to a place of safe storage from the place where seized, the seizing officer may destroy such
4710 apparatus only as necessary to prevent use of all or any part thereof for the purpose of distilling. The
4711 destruction shall be in the presence of at least one credible witness, and such witness shall join the officer
4712 in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the
4713 grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash
4714 value of the apparatus destroyed, and the materials remaining after such destruction. The report shall
4715 include a statement that, from facts within their own knowledge, the seizing officer and witness have no
4716 doubt whatever that the distilling apparatus was set up for use, or had been used in the unlawful distillation
4717 of spirits, and that it was impracticable to remove such apparatus to a place of safe storage.

4718 In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by
4719 the laws of the United States has not been paid, for any offense involving forfeiture of the same, the seizing

4720 officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation
4721 of spirits or any other violation of this ~~title~~ subtitle. The destruction shall be in the presence of at least one
4722 credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction,
4723 to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for
4724 seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer
4725 and witness have no doubt whatever that the mash was intended for use in the unlawful distillation of
4726 spirits, or that the alcoholic beverages were intended for use in violation of this ~~title~~ subtitle.

4727 C. Hearing and determination. -- Upon the return of the warrant as provided in this section, the
4728 court shall fix a time not less than ~~ten~~ 10 days, unless waived by the accused in writing, and not more than
4729 ~~thirty~~ 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or
4730 any part thereof, were used or in any manner kept, stored or possessed in violation of this ~~title~~ subtitle.

4731 At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the
4732 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
4733 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
4734 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
4735 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
4736 determine the validity of such claim.

4737 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
4738 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
4739 not be a bar to any prosecution under any other provision of this ~~title~~ subtitle.

4740 D. Disposition of forfeited beverages and other articles. -- Any articles forfeited to the
4741 Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by
4742 the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund. If the
4743 Board believes that any alcoholic beverages forfeited to the Commonwealth and turned over to the Board
4744 in accordance with this section cannot be sold and should not be destroyed, it may give such alcoholic
4745 beverages for medicinal purposes to any institution in the Commonwealth regularly conducted as a
4746 hospital, nursing home or sanatorium for the care of persons in ill health, or as a home devoted exclusively

4747 to the care of aged people, to supply the needs of such institution for alcoholic beverages for such purposes,
4748 provided that (i) the State Health Commissioner has issued a certificate stating that such institution has
4749 need for such alcoholic beverages and (ii) preference is accorded by the Board to institutions supported
4750 either in whole or in part by public funds. A record shall be made showing the amount issued in each case,
4751 to whom issued and the date when issued, and shall be kept in the offices of the State Health Commissioner
4752 and the Board. No charge shall be made to any patient for the alcoholic beverages supplied to him where
4753 they have been received from the Board pursuant to this section. Such alcoholic beverages shall be
4754 administered only upon approval of the patient's physician.

4755 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
4756 Board in accordance with this section are usable, should not be destroyed and cannot be sold or whose
4757 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
4758 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
4759 A record shall be made showing the nature of the foodstuffs and amount given, to whom given and the
4760 date when given, and shall be kept in the offices of the Board.

4761 **§ 4.1-348. Beverages not licensed under this subtitle.**

4762 The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages ~~which~~ that
4763 may be manufactured and sold without any license under the provisions of this ~~title~~ subtitle.

4764 **§ 4.1-349. Punishment for violations of subtitle or regulations; bond.**

4765 A. Any person convicted of a misdemeanor under the provisions of this ~~title~~ subtitle without
4766 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
4767 convicted of violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

4768 B. In addition to the penalties imposed by this ~~title~~ subtitle for violations, any court before whom
4769 any person is convicted of a violation of any provision of this ~~title~~ subtitle may require such defendant to
4770 execute bond, with approved security, in the penalty of not more than \$1,000, with the condition that the
4771 defendant will not violate any of the provisions of this ~~title~~ subtitle for the term of one year. If any such
4772 bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is
4773 discharged by the court, provided he shall not be confined for a period longer than six months. If any such

4774 bond required by a court is not given during the term of the court by which conviction is had, it may be
4775 given before any judge or before the clerk of such court.

4776 C. The provisions of this ~~title~~ subtitle shall not prevent the Board from suspending, revoking or
4777 refusing to continue the license of any person convicted of a violation of any provision of this ~~title~~ subtitle.

4778 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
4779 assistant has been notified that such a case is pending.

4780 **§ 4.1-350. Witness not excused from testifying because of self-incrimination.**

4781 No person shall be excused from testifying for the Commonwealth as to any offense committed
4782 by another under this ~~title~~ subtitle by reason of his testimony tending to incriminate him. The testimony
4783 given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall
4784 not be used against him, and he shall not be prosecuted for the offense to which he testifies.

4785 **§ 4.1-351. Previous convictions.**

4786 In any indictment, information, or warrant charging any person with a violation of any provision
4787 of this ~~title~~ subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove
4788 that such person has been previously convicted of a violation of this ~~title~~ subtitle.

4789 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

4790 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board
4791 or the Department of Forensic Science, when signed by him, shall be admissible as evidence ~~in all~~
4792 ~~prosecutions for violations of this title and all controversies in any judicial proceedings touching the~~
4793 ~~mixture analyzed by him~~ of the facts therein stated and of the results of such analysis (i) in any criminal
4794 proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused
4795 has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any
4796 civil proceeding. On motion of the accused or any party in interest, the court may require the forensic
4797 scientist making the analysis to appear as a witness and be subject to cross-examination, provided such
4798 motion is made within a reasonable time prior to the day on which the case is set for trial.

4799 **§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.**

4800 In any prosecution for violations of this ~~title~~ subtitle, where a sealed container is labeled as
4801 containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the
4802 alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to
4803 establish the alcoholic content of a container, whether sealed or not.

4804 **§ 4.1-354. No recovery for alcoholic beverages illegally sold.**

4805 No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ subtitle
4806 may be maintained.

4807 **§ 4.1-600. Definitions.**

4808 As used in this subtitle, unless the context requires a different meaning:

4809 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction
4810 that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, ~~or~~
4811 marijuana seeds, or regulated hemp products, including any written, printed, graphic, digital, electronic,
4812 or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

4813 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

4814 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

4815 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

4816 "Canopy" means any area dedicated to live marijuana plant cultivation, including areas in which
4817 plants are grown, propagated, cloned, or maintained. If any such areas are stacked vertically, each level
4818 of space shall be measured and included in the total canopy square footage.

4819 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or
4820 constructed to be significantly difficult for a typical child under five years of age to open and not to be
4821 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than
4822 a single use or that contains multiple servings, resealable.

4823 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,
4824 grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate"
4825 does not include manufacturing or testing.

4826 "Edible hemp product" means a hemp product intended to be consumed orally that is or contains
4827 an industrial hemp extract.

4828 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
4829 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

4830 "Hemp product" means the same as that term is defined in § 3.2-4112.

4831 "Hemp product intended for smoking" means any hemp product intended to be consumed by
4832 inhalation.

4833 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no
4834 wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

4835 "Industrial hemp" means the same as that term is defined in § 3.2-4112.

4836 "Industrial hemp extract" means any phytochemical that has been removed from industrial hemp.

4837 "Industrial hemp extract" is not a hemp seed-derived ingredient that is approved by the U.S. Food and
4838 Drug Administration or the subject of a generally recognized as safe notice for which the U.S. Food and
4839 Drug Administration had no questions.

4840 "Licensed" means the holding of a valid license granted by the Authority.

4841 "Licensee" means any person to whom a license has been granted by the Authority.

4842 "Manufacturing" or "manufacture" means the production of marijuana products or regulated hemp
4843 products or the blending, infusing, compounding, or other preparation of marijuana ~~and~~ marijuana
4844 products, or regulated hemp products, including marijuana extraction or preparation by means of chemical
4845 synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

4846 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
4847 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
4848 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature
4849 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless
4850 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana"
4851 does not include (i) industrial hemp, ~~as defined in § 3.2-4112~~, that is possessed by a person registered
4852 pursuant to subsection A of § 3.2-4115 or his agent ~~or~~; (ii) industrial hemp that is possessed by a person

4853 who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.
4854 Part 990; (iii) a hemp product, as defined in § 3.2-4112, other than a regulated hemp product, containing
4855 a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp,
4856 as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; or (iv)
4857 a regulated hemp product that does not exceed the maximum tetrahydrocannabinol concentration
4858 established pursuant to § 4.1-606 and that is derived from industrial hemp that is grown, dealt, or processed
4859 in compliance with state or federal law.

4860 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more
4861 active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a
4862 marijuana plant is a concentrate for purposes of this subtitle.

4863 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and
4864 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other
4865 marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana
4866 plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of
4867 and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities;
4868 to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell
4869 immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at
4870 home for personal use.

4871 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
4872 marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

4873 "Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture,
4874 label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail
4875 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer
4876 possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail
4877 marijuana stores, or other marijuana manufacturing facilities.

4878 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either
4879 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,

4880 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,
4881 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into
4882 the human body marijuana.

4883 "Marijuana products" means (i) products that are composed of marijuana and other ingredients and
4884 are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

4885 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or
4886 test marijuana, marijuana products, regulated hemp products, and other substances.

4887 "Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession
4888 of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a
4889 marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to
4890 transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana
4891 plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail
4892 marijuana store, or another marijuana wholesaler.

4893 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed
4894 marijuana establishment.

4895 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by
4896 a licensed marijuana establishment.

4897 "Place or premises" means the real estate, together with any buildings or other improvements
4898 thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale,
4899 or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any
4900 such building or other improvement actually and exclusively used as a private residence.

4901 "Public place" means any place, building, or conveyance to which the public has, or is permitted
4902 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
4903 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
4904 highway, street, or lane.

4905 "Regulated hemp product" means a hemp product intended for smoking or edible hemp products.

4906 "Residence" means any building or part of a building or structure where a person resides, but does
4907 not include any part of a building that is not actually and exclusively used as a private residence, nor any
4908 part of a hotel or club other than a private guest room thereof.

4909 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed
4910 marijuana establishment.

4911 "Retail marijuana products" means marijuana products that are manufactured and sold by a
4912 licensed marijuana establishment.

4913 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession
4914 of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
4915 marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail
4916 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

4917 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for
4918 sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail
4919 marijuana, ~~retail marijuana products,~~ or regulated hemp products.

4920 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board
4921 has designated as a law-enforcement officer pursuant to this subtitle.

4922 "Testing" or "test" means the research and analysis of marijuana, marijuana products, regulated
4923 hemp products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not
4924 include cultivation or manufacturing.

4925 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

4926 A. The General Assembly has determined that there exists in the Commonwealth a need to control
4927 the possession, sale, transportation, distribution, and delivery of retail marijuana ~~and,~~ retail marijuana
4928 products, and regulated hemp products in the Commonwealth. Further, the General Assembly determines
4929 that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will
4930 promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To
4931 achieve this objective, there is hereby created an independent political subdivision of the Commonwealth,
4932 exclusive of the legislative, executive, or judicial branches of state government, to be known as the

4933 Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this
4934 subtitle shall be deemed the performance of an essential governmental function and a matter of public
4935 necessity for which public moneys may be spent.

4936 B. The Board of Directors of the Authority is vested with control of the possession, sale,
4937 transportation, distribution, and delivery of retail marijuana~~and~~, retail marijuana products, and regulated
4938 hemp products in the Commonwealth, with plenary power to prescribe and enforce regulations and
4939 conditions under which retail marijuana~~and~~, retail marijuana products, and regulated hemp products are
4940 possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent,
4941 dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and
4942 prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall
4943 be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety,
4944 health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the
4945 benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid
4946 for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be
4947 conferred that are in conformity with said purposes, and no private individual shall be entitled to share in
4948 the distribution of any of the corporate assets on dissolution of the Authority.

4949 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
4950 **meetings; compensation and expenses; duties.**

4951 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an
4952 advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public health
4953 issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations
4954 regarding health warnings, retail marijuana~~and~~, retail marijuana products, and regulated hemp products
4955 safety and product composition, and public health awareness, programming, and related resource needs.

4956 B. The Advisory Council shall have a total membership of ~~21~~ 24 members that shall consist of ~~14~~
4957 16 nonlegislative citizen members and ~~seven~~ eight ex officio members. Nonlegislative citizen members
4958 of the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and
4959 geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows:

4960 four to be appointed by the Senate Committee on Rules, one of whom shall be a representative from the
4961 Virginia Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter
4962 of the American Academy of Pediatrics, one of whom shall be a representative from the Medical Society
4963 of Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to
4964 be appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a
4965 community services board, one of whom shall be a person or health care provider with expertise in
4966 substance use disorder treatment and recovery, one of whom shall be a person or health care provider with
4967 expertise in substance use disorder prevention, one of whom shall be a person with experience in disability
4968 rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom
4969 shall be a person with a social or health equity background; and ~~four~~ six to be appointed by the Governor,
4970 subject to confirmation by the General Assembly, one of whom shall be a representative of a local health
4971 district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an
4972 academic researcher knowledgeable about cannabis, ~~and~~ one of whom shall be a registered medical
4973 cannabis patient, one of whom shall be a person with expertise in marijuana consumer safety, and one of
4974 whom shall be a representative of a marijuana testing laboratory that has operated in the Commonwealth
4975 for no less than one year.

4976 The Secretary of Health and Human Resources, the Director of Diversity, Equity, and Inclusion,
4977 the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the
4978 Commissioner of Agriculture and Consumer Services, the Director of the Department of Health
4979 Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the
4980 Virginia Cannabis Control Authority, or their designees, shall serve ex officio with voting privileges. Ex
4981 officio members of the Advisory Council shall serve terms coincident with their terms of office.

4982 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term
4983 of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
4984 terms. Vacancies shall be filled in the same manner as the original appointments. All members may be
4985 reappointed.

4986 The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his
4987 designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of
4988 the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and
4989 shall meet at the call of the chairman or whenever the majority of the members so request.

4990 The Advisory Council shall have the authority to create subgroups with additional stakeholders,
4991 experts, and state agency representatives.

4992 C. Members shall receive no compensation for the performance of their duties but shall be
4993 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as
4994 provided in §§ 2.2-2813 and 2.2-2825.

4995 D. The Advisory Council shall have the following duties, in addition to duties that may be
4996 necessary to fulfill its purpose as described in subsection A:

4997 1. To review multi-agency efforts to support collaboration and a unified approach on public health
4998 responses related to marijuana and marijuana legalization in the Commonwealth and to develop
4999 recommendations as necessary.

5000 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the
5001 Commonwealth and the science and medical information relevant to the potential health risks associated
5002 with such drug use, and make appropriate recommendations to the Department of Health and the Board.

5003 3. ~~Submit~~ To submit an annual report to the Governor and the General Assembly for publication
5004 as a report document as provided in the procedures of the Division of Legislative Automated Systems for
5005 the processing of legislative documents and reports. The chairman shall submit to the Governor and the
5006 General Assembly an annual executive summary of the interim activity and work of the Advisory Council
5007 no later than the first day of each regular session of the General Assembly. The executive summary shall
5008 be submitted as a report document as provided in the procedures of the Division of Legislative Automated
5009 Systems for the processing of legislative documents and reports and shall be posted on the General
5010 Assembly's website.

5011 **§ 4.1-604. Powers and duties of the Board.**

5012 The Board shall have the following powers and duties:

- 5013 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
5014 and § 4.1-606;
- 5015 2. Control the possession, sale, transportation, and delivery of marijuana~~and~~ marijuana products,
5016 and regulated hemp products;
- 5017 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and
5018 testing of marijuana~~and~~ marijuana products, and regulated hemp products as provided by law;
- 5019 4. Determine the nature, form, and capacity of all containers used for holding marijuana products
5020 and regulated hemp products to be kept or sold and prescribe the form and content of all labels and seals
5021 to be placed thereon;
- 5022 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;
- 5023 6. Establish standards and implement an online course for employees of retail marijuana stores
5024 that trains employees on how to educate consumers on the potential risks of marijuana use;
- 5025 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
5026 similar document regarding the potential risks of marijuana use to be prominently displayed and made
5027 available to consumers;
- 5028 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business
5029 Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on
5030 matters related to diversity, equity, and inclusion standards in the marijuana industry;
- 5031 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop
5032 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish
5033 to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may
5034 include a requirement that the licensee participate in social equity apprenticeship plan, and an approval
5035 process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis
5036 of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned
5037 businesses interested in participating in the marijuana industry and recommending strategies to effectively
5038 mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana
5039 establishment licensees; (iv) spread awareness of business opportunities related to the marijuana

5040 marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide
5041 technical assistance in navigating the administrative process to potential marijuana establishment
5042 licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana
5043 prohibition and enforcement as necessary;

5044 10. Establish a position for an individual with professional experience in a health related field who
5045 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the
5046 Office of the Secretary of Health and Human Resources and relevant health and human services agencies
5047 and organizations, and perform other duties as needed.

5048 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and
5049 the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana
5050 industry by people from communities that have been disproportionately impacted by marijuana
5051 prohibition and enforcement and to positively impact those communities;

5052 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

5053 13. Adopt, use, and alter at will a common seal;

5054 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
5055 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority
5056 for the purpose of providing for the payment of the expenses of the Authority;

5057 15. Make and enter into all contracts and agreements necessary or incidental to the performance
5058 of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
5059 agreements with any person or federal agency;

5060 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
5061 experts, investment bankers, superintendents, managers, and such other employees and special agents as
5062 may be necessary and fix their compensation to be payable from funds made available to the Authority.
5063 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
5064 (§ 2.2-500 et seq.) of Title 2.2;

5065 17. Receive and accept from any federal or private agency, foundation, corporation, association,
5066 or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive

5067 and accept from the Commonwealth or any state and any municipality, county, or other political
5068 subdivision thereof or from any other source aid or contributions of either money, property, or other things
5069 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
5070 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
5071 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
5072 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
5073 conditions as are prescribed by the Commonwealth;

5074 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
5075 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
5076 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
5077 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
5078 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
5079 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
5080 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or
5081 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
5082 and tasks;

5083 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the
5084 Authority's purposes or necessary or convenient to exercise its powers;

5085 20. Develop policies and procedures generally applicable to the procurement of goods, services,
5086 and construction, based upon competitive principles;

5087 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43
5088 of Title 2.2;

5089 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
5090 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
5091 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
5092 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
5093 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,

5094 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
5095 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
5096 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
5097 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
5098 land or building required for the purposes of this subtitle;

5099 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
5100 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,
5101 blending, and processing plants;

5102 24. Appoint every agent and employee required for its operations, require any or all of them to
5103 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the
5104 services of experts and professionals;

5105 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
5106 production of records, memoranda, papers, and other documents before the Board or any agent of the
5107 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member
5108 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
5109 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
5110 The Board may enter into consent agreements and may request and accept from any applicant or licensee
5111 a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary
5112 action. Any such consent agreement shall include findings of fact and may include an admission or a
5113 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall
5114 not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et
5115 seq.), but may be considered by the Board in future disciplinary proceedings;

5116 26. Make a reasonable charge for preparing and furnishing statistical information and compilations
5117 to persons other than (i) officials, including court and police officials, of the Commonwealth and of its
5118 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
5119 interest in obtaining the information requested if such information is not to be used for commercial or
5120 trade purposes;

5121 27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board
5122 regulations;

5123 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief
5124 Executive Officer as the Board deems appropriate;

5125 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-
5126 enforcement activities undertaken to enforce the provisions of this subtitle;

5127 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
5128 applications for such permits;

5129 31. Develop and make available on its website guidance documents regarding compliance and safe
5130 practices for persons who cultivate marijuana at home for personal use, which shall include information
5131 regarding cultivation practices that promote personal and public safety, including child protection, and
5132 discourage practices that create a nuisance;

5133 32. Develop and make available on its website a resource that provides information regarding (i)
5134 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana
5135 consumption, including inability to operate a motor vehicle and other types of transportation and
5136 equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain
5137 employment opportunities. The Board shall require that the web address for such resource be included on
5138 the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

5139 33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

5140 **§ 4.1-606. Regulations of the Board.**

5141 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the
5142 general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and
5143 to prevent the illegal cultivation, manufacture, sale, and testing of marijuana ~~and~~ marijuana products, and
5144 regulated hemp products. The Board may amend or repeal such regulations. Such regulations shall be
5145 promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
5146 and shall have the effect of law.

5147 B. The Board shall promulgate regulations that:

- 5148 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee,
5149 including security requirements to include lighting, physical security, and alarm requirements, provided
5150 that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;
- 5151 2. Establish requirements for securely transporting marijuana between marijuana establishments;
- 5152 3. Establish sanitary standards for retail marijuana product and regulated hemp product
5153 preparation;
- 5154 4. Establish a testing program for retail marijuana ~~and~~ retail marijuana products, and regulated
5155 hemp products pursuant to Chapter 14 (§ 4.1-1400 et seq.);
- 5156 5. Establish an application process for licensure as a marijuana establishment pursuant to this
5157 subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged
5158 communities;
- 5159 6. Establish requirements for health and safety warning labels to be placed on retail marijuana and
5160 retail marijuana products to be sold or offered for sale by a licensee to a consumer and on regulated hemp
5161 products to be sold or offered for sale by a person in accordance with the provisions of this subtitle;
- 5162 7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, ~~which~~ and
5163 regulated hemp products. Such tetrahydrocannabinol level for retail marijuana products shall not exceed
5164 (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount
5165 for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where
5166 practicable an equivalent amount for other marijuana products. Such regulations may include other
5167 product and dispensing limitations on tetrahydrocannabinol;
- 5168 8. Establish requirements for the form, content, and retention of all records and accounts by all
5169 licensees and by any person selling a regulated hemp product;
- 5170 9. Provide alternative methods for licensees and any person selling a regulated hemp product to
5171 maintain and store business records that are subject to Board inspection, including methods for Board-
5172 approved electronic and offsite storage;
- 5173 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana
5174 stores in the community and (ii) metrics that have similarly shown an association with negative

5175 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall
5176 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

5177 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing
5178 officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee
5179 at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

5180 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant
5181 to subsection C of § 4.1-1002;

5182 13. Establish criteria by which to evaluate social equity license applicants, which shall be an
5183 applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i)
5184 an applicant with at least 66 percent ownership by a person or persons who have been convicted of or
5185 adjudicated delinquent for any misdemeanor violation of former § 18.2-248.1, former § 18.2-250.1, or
5186 subsection A of § 18.2-265.3 as it relates to marijuana, including any such violation that was deferred and
5187 dismissed; (ii) an applicant with at least 66 percent ownership by a person or persons who ~~is the parent,~~
5188 ~~child, sibling, or spouse of a person~~ (a) has a family member who has been convicted of or adjudicated
5189 delinquent for any misdemeanor violation of former § 18.2-248.1, former § 18.2-250.1, or subsection A
5190 of § 18.2-265.3 as it relates to marijuana, including any such violation that was deferred and dismissed,
5191 and (b) was a dependent of such family member at the time such offense was committed or was
5192 significantly impacted, as determined by the Board, by such conviction, adjudication, or disposition; or
5193 (iii) an applicant with at least 66 percent ownership by a person or persons who ~~have~~ meet two or more of
5194 the following: (a) resided for at least three of the past five years in a jurisdiction that is determined by the
5195 Board after utilizing census tract data made available by the United States Census Bureau to have been
5196 disproportionately policed for marijuana crimes; ~~(iv) an applicant with at least 66 percent ownership by a~~
5197 ~~person or persons who have,~~ (b) resided for at least three of the last five years in a jurisdiction determined
5198 by the Board after utilizing census tract data made available by the United States Census Bureau to be
5199 economically distressed; ~~or (v) an applicant with at least 66 percent ownership by a person or persons~~
5200 ~~who,~~ (c) graduated from a historically black college or university located in the Commonwealth;

5201 14. For the purposes of establishing criteria by which to evaluate social equity license applicants,
5202 establish standards by which to determine (i) which jurisdictions have been disproportionately policed for
5203 marijuana crimes ~~and~~, (ii) which jurisdictions are economically distressed, and (iii) whether a person was
5204 significantly impacted by a family member's conviction, adjudication of delinquency, or deferred
5205 disposition for any misdemeanor violation of former § 18.2-248.1, former § 18.2-250.1, or subsection A
5206 of § 18.2-265.3 as it relates to marijuana;

5207 15. Establish standards and requirements for (i) any preference in the licensing process for
5208 qualified social equity applicants, (ii) what percentage of application or license fees are waived for a
5209 qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity
5210 applicants;

5211 16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal
5212 cultivation and manufacturing of marijuana that promote personal and public safety, including child
5213 protection, and discourage personal cultivation practices that create a nuisance, including a nuisance
5214 caused by odor;

5215 17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail
5216 marijuana ~~or~~, retail marijuana products, or regulated hemp products, not inconsistent with the provisions
5217 of this chapter, so that such advertising displaces the illicit market and notifies the public of the location
5218 of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

5219 18. Establish restrictions on the number of licenses that a person may be granted to operate a
5220 marijuana establishment in single locality or region; and

5221 19. Establish restrictions on pharmaceutical processors ~~and industrial hemp processors~~ that have
5222 been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure
5223 all licensees have an equal and meaningful opportunity to participate in the market. Such regulations (i)
5224 shall limit such pharmaceutical processors to a total canopy of 80,000 square feet and (ii) may limit the
5225 amount of products cultivated or manufactured by the pharmaceutical processor ~~or industrial hemp~~
5226 ~~processor~~ that such processor may offer for sale in its retail marijuana stores.

5227 C. The Board may promulgate regulations that:

5228 1. ~~Limit~~ Establish classes within any license category or limit the number of licenses issued by
5229 type or class to operate a marijuana establishment; however, ~~the number of licenses issued shall not exceed~~
5230 ~~the following limits:~~

- 5231 a. ~~Retail marijuana stores, 400;~~
- 5232 b. ~~Marijuana wholesalers, 25;~~
- 5233 c. ~~Marijuana manufacturing facilities, 60; and~~
- 5234 d. ~~Marijuana cultivation facilities, 450~~ the Board may not issue more than 400 retail marijuana
5235 store licenses.

5236 In determining the number of licenses issued pursuant to this subdivision, the Board shall not
5237 consider any license granted pursuant to subsection C of § 4.1-805 to ~~(i) a pharmaceutical processor that~~
5238 has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the
5239 Drug Control Act ~~or (ii) an industrial hemp processor registered with the Commissioner of Agriculture~~
5240 ~~and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.~~

5241 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-
5242 1003 and 4.1-1004, including method of filing a return, information required on a return, and form of
5243 payment.

5244 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500
5245 square feet.

5246 4. Allow certain persons to be granted or have interest in a license in more than one of the following
5247 license categories: marijuana cultivation facility license, marijuana manufacturing facility license,
5248 marijuana wholesaler license, or retail marijuana store license. Such regulations shall (i) be drawn
5249 narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and
5250 meaningful opportunity to participate in the market and (ii) limit such vertically integrated licensees to a
5251 total canopy of 8,000 square feet.

5252 D. Board regulations shall be uniform in their application, except those relating to hours of sale
5253 for licensees.

5254 E. Courts shall take judicial notice of Board regulations.

5255 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
 5256 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
 5257 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the
 5258 members of the Cannabis Public Health Advisory Council.

5259 G. With regard to regulations governing licensees that have been issued a permit by the Board of
 5260 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2
 5261 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such
 5262 regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health,
 5263 safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii)
 5264 to deem in compliance with applicable regulations promulgated pursuant to this subtitle such
 5265 pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance
 5266 with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than
 5267 similar regulations promulgated pursuant to this subtitle.

5268 H. The Board's power to regulate shall be broadly construed.

5269 **§ 4.1-611. Seed-to-sale tracking system.**

5270 To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana
 5271 establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and
 5272 maintain a seed-to-sale tracking system that tracks at every stage retail marijuana from either the seed or
 5273 immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at a retail
 5274 marijuana store.

5275 **§ 4.1-629. Local referendum on prohibition of marijuana establishments.**

5276 A. The governing body of a locality may, by resolution, petition the circuit court for the locality
 5277 for a referendum on the question of whether marijuana establishments should be prohibited in the locality.

5278 Upon the filing of a petition, the circuit court shall order the election officials to conduct a
 5279 referendum on the question on the date fixed in the order. The date set by the order shall comply with the
 5280 provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the order is

5281 issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general
5282 circulation in the locality once a week for three consecutive weeks prior to the referendum.

5283 The question on the ballot shall be:

5284 "Shall the operation of marijuana establishments be prohibited in _____ (name of county,
5285 city, or town)?"

5286 The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the
5287 certifications required by such section, the secretary of the local electoral board shall certify the results of
5288 the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing
5289 body of the locality.

5290 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of
5291 whether marijuana establishments shall be prohibited in the locality, marijuana establishments shall be
5292 permitted to operate within the locality 60 days after the results are certified or on January 1, 2024,
5293 whichever is later, and no subsequent referendum may be held pursuant to this section within such locality.

5294 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of
5295 whether marijuana establishments shall be prohibited in the locality, marijuana establishments shall be
5296 prohibited in the locality effective January 1 of the year immediately following the referendum. A
5297 referendum on the same question may be held subsequent to a vote to prohibit marijuana establishments
5298 but not earlier than the fourth November following the date of the previous referendum. Any subsequent
5299 referendum shall be held pursuant to the provisions of this section.

5300 C. When any referendum is held pursuant to this section in a town, separate and apart from the
5301 county in which such town or a part thereof is located, such town shall be treated as being separate and
5302 apart from such county. When any referendum is held pursuant to this section in a county, any town
5303 located within such county shall be treated as being separate and apart from such county.

5304 D. The legality of any referendum held pursuant to this section shall be subject to the inquiry,
5305 determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon
5306 the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the
5307 date the results of the referendum are certified and setting out fully the grounds of contest. The complaint

5308 and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the
5309 judgment of the court entered of record shall be a final determination of the legality of the referendum.

5310 **§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana**
5311 **products.**

5312 A. No county, city, or town shall, except as provided in § 4.1-629, adopt any ordinance or
5313 resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution,
5314 handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail
5315 marijuana products in the Commonwealth.

5316 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that
5317 prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty
5318 for violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail
5319 marijuana products containers in its local public parks, playgrounds, public streets, and any sidewalk
5320 adjoining any public street.

5321 C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to
5322 adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local
5323 zoning and land use requirements and business license requirements; however, a locality shall not adopt
5324 any local ordinance, zoning requirement, land use requirement, or business license requirement that
5325 regulates marijuana establishments unless such ordinance or requirement applies with equal force and
5326 effect to similarly situated businesses.

5327 D. Except as provided in this section, all local acts, including charter provisions and ordinances of
5328 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the
5329 extent of such inconsistency.

5330 **CHAPTER 7.**

5331 **ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.**

5332 **§ 4.1-700. Exemptions from licensure.**

5333 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
5334 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2

5335 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp
5336 registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-
5337 4112 et seq.) of Title 3.2; (iii) a manufacturer of an edible hemp product operating in accordance with
5338 Article 6 (§ 3.2-5145.6 et seq.) Chapter 51 of Title 3.2; or (iv) a person who cultivates marijuana at home
5339 for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any
5340 person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this subtitle, provided such
5341 person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products
5342 from an industrial hemp processor in accordance with the provisions of Chapter 41.1 of Title 3.2; or (c)
5343 prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises
5344 of a pharmaceutical processing facility in accordance with Article 4.2 of the Drug Control Act or an
5345 industrial hemp processing facility in accordance with Chapter 41.1 of Title 3.2.

5346 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

5347 The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or
5348 retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for
5349 the purpose of operating under such license. The licensee may be held liable for any violation of this
5350 subtitle or any Board regulation committed by such agents or employees in connection with their
5351 employment.

5352 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting;**
5353 **expiration; civil penalties.**

5354 A. Each license granted by the Board shall designate the place where the business of the licensee
5355 will be carried on. A separate license shall be required for each separate place of business.

5356 B. No license shall be transferable from one person to another or from one location to another. The
5357 Board may permit a licensee to amend the classification of an existing license without complying with the
5358 posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce
5359 materially the privileges of an existing license. However, if (i) the Board determines that the amendment
5360 is a device to evade the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana
5361 store licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail

5362 marijuana store licensee, the Board may, within 30 days of receipt of written notice by the licensee of a
5363 change in ownership or a change of business, require the licensee to comply with any or all of the
5364 requirements of § 4.1-1000. If the Board fails to exercise its authority within the 30-day period, the
5365 licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the
5366 secretary of the Board.

5367 C. Each license shall be posted in a location conspicuous to the public at the place where the
5368 licensee carries on the business for which the license is granted.

5369 D. The privileges conferred by any license granted by the Board shall continue until the last day
5370 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except
5371 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to
5372 grant a license or by operation of law, voluntary surrender, or order of the Board.

5373 The Board may grant licenses for one year or for multiple years, not to exceed three years, based
5374 on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be
5375 determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be
5376 refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-
5377 year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year
5378 and shall not be altered or rescinded during such period.

5379 E. The Board may permit a licensee who fails to pay:

5380 1. The required license fee covering the continuation or reissuance of his license by midnight of
5381 the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable,
5382 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made
5383 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee,
5384 whichever is greater; and

5385 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing
5386 notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified
5387 in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is
5388 greater.

5389 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

5390 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

5391 A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete,
5392 accurate, and separate records in accordance with Board regulations of all retail marijuana and retail
5393 marijuana products it purchased, manufactured, sold, or shipped.

5394 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in
5395 accordance with Board regulations of all purchases of retail marijuana products, the prices charged such
5396 licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail
5397 marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board
5398 regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail
5399 marijuana products sold and the total price charged by it therefor. Except as otherwise provided in
5400 subsections D and E, such account need not give the names or addresses of the purchasers thereof, except
5401 as may be required by Board regulation.

5402 Notwithstanding the provisions of subsection E, electronic records of licensed retail marijuana
5403 stores may be stored off site, provided that such records are readily retrievable and available for electronic
5404 inspection by the Board or its special agents at the licensed premises. However, in the case that such
5405 electronic records are not readily available for electronic inspection on the licensed premises, the licensee
5406 may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special
5407 agent of the Board within three business days or less, as determined by the Board, after a request is made
5408 to inspect the records.

5409 C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records
5410 in accordance with Board regulations of all retail marijuana and retail marijuana products it purchased,
5411 manufactured, sold, or shipped.

5412 D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in
5413 accordance with Board regulations of all retail marijuana and retail marijuana products it developed,
5414 researched, or tested and the names and addresses of the licensees or persons who submitted the retail
5415 marijuana or retail marijuana product to the marijuana testing facility.

5416 E. The Board and its special agents shall be allowed free access during reasonable hours to every
5417 place in the Commonwealth and to the premises of every licensee or for the purpose of examining and
5418 inspecting such place and all records, invoices, and accounts therein.

5419 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
5420 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
5421 open to the public substantially during the same hours, "reasonable hours" means the business hours when
5422 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records
5423 are not available for inspection, the licensee shall provide the records to a special agent of the Board within
5424 24 hours after a request is made to inspect the records.

5425 CHAPTER 8.

5426 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

5427 § 4.1-800. Marijuana cultivation facility license.

5428 A. The Board may issue marijuana cultivation facility licenses, which shall authorize the licensee
5429 to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and
5430 seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana,
5431 immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to
5432 transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana
5433 cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing
5434 facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of
5435 cultivating marijuana at home for personal use.

5436 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall
5437 track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the
5438 marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana
5439 testing facility, a marijuana wholesaler, another marijuana cultivation facility, a marijuana manufacturer,
5440 a retail marijuana store, or a consumer or is disposed of or destroyed.

5441 § 4.1-801. Marijuana manufacturing facility license.

5442 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the
5443 licensee to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or
5444 take possession of retail marijuana from a marijuana cultivation facility or another marijuana
5445 manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products
5446 to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

5447 B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a
5448 licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail
5449 marijuana products and using equipment that is used exclusively for the manufacture and preparation of
5450 retail marijuana or retail marijuana products.

5451 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail
5452 marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in
5453 regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible
5454 marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and
5455 any regulations adopted pursuant thereto.

5456 D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee
5457 shall track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is
5458 delivered or transferred to the marijuana manufacturing facility by a marijuana wholesaler licensee to the
5459 point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or
5460 transferred to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana
5461 wholesaler or are disposed of or destroyed.

5462 **§ 4.1-802. Marijuana testing facility license.**

5463 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to
5464 develop, research, or test retail marijuana, retail marijuana products, regulated hemp products, and other
5465 substances.

5466 B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana
5467 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana
5468 or retail marijuana product for personal use as authorized under § 4.1-1100.

5469 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a
5470 marijuana testing facility from developing, researching, or testing substances that are not marijuana,
5471 marijuana products, or regulated hemp products for that facility or for another person.

5472 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
5473 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
5474 Standardization by a third-party accrediting body.

5475 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall
5476 track all retail marijuana and retail marijuana products it receives from a licensee for testing purposes from
5477 the point at which the retail marijuana or retail marijuana products are delivered or transferred to the
5478 marijuana testing facility to the point at which the retail marijuana or retail marijuana products are
5479 disposed of or destroyed.

5480 F. A person that has an interest in a marijuana testing facility license shall not have any interest in
5481 a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana
5482 wholesaler, or a licensed retail marijuana store.

5483 **§ 4.1-803. Marijuana wholesaler license.**

5484 A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to
5485 purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and
5486 marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another
5487 marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana
5488 products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana
5489 manufacturing facility, retail marijuana store, or another marijuana wholesaler.

5490 B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and
5491 retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by
5492 the Board.

5493 C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track
5494 the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the
5495 point at which the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred

5496 to the marijuana wholesaler to the point at which the retail marijuana, retail marijuana products, plants, or
5497 seeds are transferred or sold to a marijuana manufacturer, marijuana wholesaler, retail marijuana store, or
5498 marijuana testing facility or are disposed of or destroyed.

5499 **§ 4.1-804. Retail marijuana store license.**

5500 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to
5501 purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or
5502 marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana
5503 wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
5504 seeds to consumers on premises approved by the Board.

5505 B. Retail marijuana stores shall be operated in accordance with the following provisions:

5506 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

5507 2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products,
5508 immature marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such
5509 store shall not be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants,
5510 or marijuana seeds using:

5511 a. An automated dispensing or vending machine;

5512 b. A drive-through sales window;

5513 c. An Internet-based sales platform; or

5514 d. A delivery service.

5515 3. A retail marijuana store shall not be permitted to sell more than one ounce of retail marijuana
5516 or an equivalent amount of retail marijuana products as determined by regulation promulgated by the
5517 Board during a single transaction to one person.

5518 4. A retail marijuana store shall not:

5519 a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by
5520 this subtitle;

5521 b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds
5522 to any person when at the time of such sale he knows or has reason to believe that the person attempting

5523 to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds
5524 is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age;
5525 c. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds
5526 between the hours of 9:00 p.m. and 8:00 a.m.; or
5527 d. Employ or allow to volunteer any person younger than 21 years of age.
5528 5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track
5529 all retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the
5530 point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
5531 seeds are delivered or transferred to the retail marijuana store to the point at which the retail marijuana,
5532 retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered
5533 or transferred to a marijuana testing facility, or disposed of or destroyed.
5534 6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et
5535 seq.) of Title 3.2.
5536 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the
5537 existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the
5538 availability of a means to report crimes or gain assistance. The notice required by this subsection shall (i)
5539 be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in
5540 subsection C of § 40.1-11.3.
5541 D. Each retail marijuana store licensee shall prominently display and make available for
5542 dissemination to consumers Board-approved information regarding the potential risks of marijuana use.
5543 E. Each retail marijuana store licensee shall provide training, established by the Board, to all
5544 employees educating them on how to discuss the potential risks of marijuana use with consumers.
5545 F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a
5546 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act
5547 shall authorize the licensee to exercise any privileges set forth in subsection A at the place of business
5548 designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon request
5549 by the licensee, up to five additional retail establishments of the licensee. Such additional retail

5550 establishments shall be located at the five cannabis dispensing facilities for which the Board of Pharmacy
5551 has issued a permit pursuant to subsection B of § 54.1-3442.6 in the health service area in which the
5552 pharmaceutical processing facility is located.

5553 **§ 4.1-805. Multiple licenses awarded to one person prohibited.**

5554 A. As used in this section, "interest" means an equity ownership interest or a partial equity
5555 ownership interest or any other type of financial interest, including but not limited to being an investor or
5556 servicing in a management position.

5557 B. Except as otherwise permitted by Board regulation promulgated pursuant to subdivision C 4 of
5558 § 4.1-606, no person shall be granted or have interest in a license in more than one of the following license
5559 categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana
5560 wholesaler license, retail marijuana store license, or marijuana testing facility license.

5561 C. Notwithstanding subsection B and any other provision of law to the contrary, any
5562 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2
5563 (§ 54.1-3442.5 et seq.) of the Drug Control Act shall be permitted to possess one or any combination of
5564 the following licenses: marijuana cultivation facility license, marijuana manufacturing facility license,
5565 marijuana wholesaler license, or retail marijuana store license. However, no pharmaceutical processor that
5566 has been issued a marijuana cultivation facility license, marijuana manufacturing facility license,
5567 marijuana wholesaler license, or retail marijuana store license shall be issued a marijuana testing facility
5568 license or have any interest in a marijuana testing facility licensee. Any pharmaceutical processor that
5569 wishes to possess a license in more than one license category pursuant to this subsection shall (a) pay a
5570 \$6 million fee to the Board, unless the processor has already paid a \$6 million fee to the Board to engage
5571 in the lawful sale of cannabis products prior to January 1, 2024, and (b) submit a diversity, equity, and
5572 inclusion plan to the Cannabis Business Equity and Diversity Support Team (the Support Team) for
5573 approval and, upon approval, implement such plan in accordance with the requirements set by the Support
5574 Team. Fees collected by the Board pursuant to this subsection shall be allocated to (1) the Virginia
5575 Cannabis Equity Loan Fund or (2) the Virginia Cannabis Equity Reinvestment Fund.

5576 **§ 4.1-806. Temporary permits required in certain instances.**

5577 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,
5578 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and
5579 who has become lawfully entitled to the possession of the licensed premises to continue to operate the
5580 marijuana establishment to the same extent as the license holder for a period not to exceed 60 days or for
5581 such longer period as determined by the Board. Such permit shall be temporary and shall confer the
5582 privileges of any licenses held by the previous owner to the extent determined by the Board. Such
5583 temporary permit may be issued in advance, conditioned on the requirements in this subsection.

5584 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board
5585 for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a
5586 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the
5587 expiration of three business days after the order of the revocation has been mailed to the permittee at either
5588 his residence or the address given for the business in the permit application. No further notice shall be
5589 required.

5590 **§ 4.1-807. Licensee shall maintain possession of premises.**

5591 As a condition of licensure, a licensee shall at all times maintain possession of the licensed
5592 premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a
5593 lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of
5594 the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be
5595 revoked by the Board.

5596 **§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee**
5597 **by licensee, agent, or employee.**

5598 No marijuana or marijuana products may be used or consumed on the premises of a licensee by
5599 the licensee or any agent or employee of the licensee, except for certain sampling for quality control
5600 purposes that may be permitted by Board regulation.

5601 **§ 4.1-809. Conditions under which the Board may refuse to grant licenses.**

5602 The Board may refuse to grant any license if it has reasonable cause to believe that:

5603 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant
5604 is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if
5605 the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
5606 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
5607 percent or more of the membership interest of the limited liability company:

5608 a. Is not 21 years of age or older;

5609 b. Is not a resident of the Commonwealth;

5610 c. Has been convicted in any court of any crime or offense involving moral turpitude under the
5611 laws of any state or of the United States within seven years of the date of the application or has not
5612 completed all terms of sentencing and probation resulting from any such felony conviction;

5613 d. Knowingly employs someone younger than 21 years of age;

5614 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have
5615 ownership interests in the business that have not been disclosed;

5616 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
5617 proposed to be licensed;

5618 g. Has misrepresented a material fact in applying to the Board for a license;

5619 h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
5620 governmental agency or authority, by making or filing any report, document, or tax return required by
5621 statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully
5622 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental
5623 agency or authority, by making or maintaining business records required by statute or regulation that are
5624 false or fraudulent;

5625 i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the
5626 time his application for a license is pending;

5627 j. Is a police officer with police authority in the political subdivision within which the
5628 establishment designated in the application is located;

5629 k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under this chapter or a
5630 retailer of tobacco or tobacco products;

5631 l. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations
5632 promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of
5633 the Drug Control Act; or

5634 m. Is physically unable to carry on the business for which the application for a license is filed or
5635 has been adjudicated incapacitated.

5636 2. The place to be occupied by the applicant:

5637 a. Does not conform to the requirements of the governing body of the county, city, or town in
5638 which such place is located with respect to sanitation, health, construction, or equipment, or to any similar
5639 requirements established by the laws of the Commonwealth or by Board regulation;

5640 b. Is so located that granting a license and operation thereunder by the applicant would result in
5641 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local
5642 ordinances relating to peace and good order;

5643 c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial
5644 school or institution of higher education; public or private playground or other similar recreational facility;
5645 child day program; substance use disorder treatment facility; or federal, state, or local government-
5646 operated facility that the operation of such place under such license will adversely affect or interfere with
5647 the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

5648 d. Is so located with respect to any residence or residential area that the operation of such place
5649 under such license will adversely affect real property values or substantially interfere with the usual
5650 quietude and tranquility of such residence or residential area;

5651 e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet
5652 of an existing retail marijuana store; or

5653 f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-
5654 enforcement officers and special agents of the Board are prevented from ready access to and reasonable
5655 observation of any room or area within which retail marijuana or retail marijuana products are to be sold.

5656 Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or
5657 premises until the final stage of the license approval process.

5658 3. The number of licenses existing in the locality is such that the granting of a license is detrimental
5659 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
5660 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail
5661 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and
5662 number of all licenses existent in the particular county, city, or town and the immediate neighborhood
5663 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in
5664 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by
5665 a local governing body or local residents.

5666 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
5667 political subdivision thereof that warrants refusal by the Board to grant any license.

5668 5. The Board is not authorized under this subtitle to grant such license.

5669 **§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.**

5670 The Board shall refuse to grant any license to any member or employee of the Board or to any
5671 corporation or other business entity in which such member or employee is a stockholder or has any other
5672 economic interest.

5673 Whenever any other elected or appointed official of the Commonwealth or any political
5674 subdivision thereof applies for such a license or continuance thereof, he shall state on the application the
5675 official position he holds, and whenever a corporation or other business entity in which any such official
5676 is a stockholder or has any other economic interest applies for such a license, it shall state on the
5677 application the full economic interests of each such official in such corporation or other business entity.

5678 **§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
5679 **exceptions.**

5680 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
5681 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
5682 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by

5683 the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
5684 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
5685 shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.
5686 Neither mandamus nor injunction shall lie in any such case.

5687 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store
5688 license, provided that such:

5689 1. License for the applicant has been refused or revoked within a period of 12 months;

5690 2. License for any premises has been refused or revoked at that location within a period of 12
5691 months; or

5692 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted
5693 by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there
5694 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
5695 alleging a violation of this subtitle.

5696 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time
5697 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
5698 the Board may refuse a hearing on an application for a new license until after the date on which the
5699 suspension period would have been executed had the license not have been permitted to expire.

5700 CHAPTER 9.

5701 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

5702 § 4.1-900. Grounds for which Board may suspend or revoke licenses.

5703 The Board may suspend or revoke any license if it has reasonable cause to believe that:

5704 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
5705 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
5706 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
5707 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
5708 percent or more of the membership interest of the limited liability company:

5709 a. Has misrepresented a material fact in applying to the Board for such license;

- 5710 b. Within the five years immediately preceding the date of the hearing held in accordance with §
5711 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.),
5712 or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or
5713 failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to
5714 comply with any of the conditions or restrictions of the license granted by the Board;
- 5715 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
5716 under the laws of any state or of the United States;
- 5717 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
5718 other persons have ownership interests in the business that have not been disclosed;
- 5719 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
5720 conducted under the license granted by the Board;
- 5721 f. Has been intoxicated or under the influence of some self-administered drug while upon the
5722 licensed premises;
- 5723 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
5724 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
5725 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- 5726 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
5727 such licensed premises;
- 5728 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
5729 product except as provided under this subtitle;
- 5730 j. Is physically unable to carry on the business conducted under such license or has been
5731 adjudicated incapacitated;
- 5732 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;
- 5733 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
5734 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
5735 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
5736 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)

5737 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
5738 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
5739 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision 1 shall also apply to
5740 any conduct related to the operation of the licensed business that facilitates the commission of any of the
5741 offenses set forth herein;

5742 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
5743 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
5744 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
5745 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
5746 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
5747 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.)
5748 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
5749 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
5750 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
5751 threat to the public safety;

5752 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
5753 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
5754 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
5755 of public property immediately adjacent to the licensed premises;

5756 o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations
5757 promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of
5758 the Drug Control Act; or

5759 p. Has refused to (i) remain neutral regarding any union organizing efforts by employees, including
5760 card check recognition and union access to employees; (ii) pay employees prevailing wages as determined
5761 by the U.S. Department of Labor; or (iii) classify no more than 10 percent of its workers as independent
5762 contractors and such workers are not owners in a worker-owned cooperative.

5763 2. The place occupied by the licensee:

5764 a. Does not conform to the requirements of the governing body of the county, city, or town in
5765 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
5766 any similar requirements established by the laws of the Commonwealth or by Board regulations;

5767 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

5768 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
5769 drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs
5770 are regularly used or distributed. The Board may consider the general reputation in the community of such
5771 establishment in addition to any other competent evidence in making such determination.

5772 3. The licensee or any employee of the licensee discriminated against any member of the Armed
5773 Forces of the United States by prices charged or otherwise.

5774 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
5775 had the facts been known.

5776 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
5777 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
5778 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
5779 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
5780 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
5781 plan approved by the same locality to settle the outstanding liability.

5782 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
5783 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
5784 licensed premises in the Commonwealth.

5785 7. Any other cause authorized by this subtitle.

5786 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

5787 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
5788 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
5789 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
5790 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises

5791 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
5792 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
5793 continuing threat to public safety and that summary suspension of the license or permit is justified to
5794 protect the health, safety, or welfare of the public.

5795 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
5796 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
5797 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
5798 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
5799 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
5800 the licensee may petition the Board for a restricted license pending the results of the formal investigation
5801 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the
5802 Board shall have discretion to impose appropriate restrictions based on the facts presented.

5803 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence
5804 a formal investigation. The formal investigation shall be completed within 10 days of its commencement
5805 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,
5806 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held
5807 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days
5808 of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the
5809 hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee
5810 shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The
5811 Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

5812 D. Service of any order of suspension issued pursuant to this section shall be made by a special
5813 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect
5814 immediately upon service.

5815 E. This section shall not apply to temporary permits granted under § 4.1-806.

5816 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

5817 The Board shall suspend or revoke any license if it finds that:

5818 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
5819 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

5820 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
5821 government or governmental agency or authority, by making or filing any report, document, or tax return
5822 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of
5823 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
5824 government or governmental agency or authority, by making or maintaining business records required by
5825 statute or regulation that are false or fraudulent.

5826 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil**
5827 **penalties.**

5828 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
5829 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
5830 Administrative Process Act (§ 2.2-4000 et seq.).

5831 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
5832 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
5833 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
5834 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
5835 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
5836 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
5837 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
5838 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against
5839 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
5840 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought
5841 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

5842 If the Board fails to provide for inspection or copying under this section for the licensee after a
5843 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
5844 have lawfully been entitled to inspect or copy under this section.

5845 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
5846 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
5847 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
5848 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
5849 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
5850 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither
5851 mandamus nor injunction shall lie in any such case.

5852 B. In suspending any license, the Board may impose, as a condition precedent to the removal of
5853 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
5854 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
5855 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
5856 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
5857 violation or \$5,000 for the second or subsequent violation occurring within five years immediately
5858 preceding the date of the second or subsequent violation. However, if the violation involved selling retail
5859 marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail
5860 marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board
5861 may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years
5862 immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring
5863 within five years immediately preceding the date of the second or subsequent violation in lieu of such
5864 suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee
5865 pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding
5866 the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

5867 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
5868 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
5869 consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the
5870 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing
5871 or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed

5872 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges
5873 within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of
5874 the suspension as applicable, or (4) proceed to a hearing.

5875 D. The Board shall, by regulation or written order:

5876 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
5877 initial hearing;

5878 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
5879 of suspension may be accepted for a first offense occurring within three years immediately preceding the
5880 date of the violation;

5881 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
5882 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
5883 its employees marijuana seller training certified in advance by the Board;

5884 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
5885 license and the civil charge acceptable in lieu of such suspension; and

5886 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
5887 licensee has had no prior violations within five years immediately preceding the date of the violation. No
5888 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
5889 subtitle or Board regulations.

5890 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana**
5891 **products on hand; termination.**

5892 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
5893 any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

5894 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana
5895 products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the
5896 Board; or

5897 2. Destroyed by the Board or its designee.

5898 B. All retail marijuana or retail marijuana products owned by or in the possession of any person
5899 whose license is suspended or revoked shall be disposed of by such person in accordance with the
5900 provisions of this section within 60 days from the date of such suspension or revocation.

5901 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
5902 persons whose licenses have been terminated other than by suspension or revocation may be disposed of
5903 in accordance with subsection A within such time as the Board deems proper. Such period shall not be
5904 less than 60 days.

5905 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of
5906 any person described in subsection A or C after the expiration of such period shall be deemed contraband
5907 and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

5908 CHAPTER 10.

5909 ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

5910 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

5911 A. Every person intending to apply for any license authorized by this subtitle shall file with the
5912 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
5913 and affirming that all of the information contained therein is true.

5914 Applicants for licenses for establishments that are otherwise required to obtain an inspection by
5915 the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a
5916 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending
5917 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a
5918 pending application or inspection, such license shall authorize the licensee to purchase retail marijuana,
5919 retail marijuana products, immature marijuana plants, or marijuana seeds in accordance with the
5920 provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana products,
5921 immature marijuana plants, or marijuana seeds until an inspection is completed.

5922 B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice
5923 of his application with the Board on the front door of the building, place, or room where he proposes to
5924 engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size

5925 and contain such information as required by the Board, including a statement that any objections shall be
5926 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to
5927 this subsection.

5928 The applicant shall also cause notice to be published at least once a week for two consecutive
5929 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
5930 such applicant proposes to engage in such business. Such notice shall contain such information as required
5931 by the Board, including a statement that any objections to the issuance of the license be submitted to the
5932 Board not later than 30 days from the date of the initial newspaper publication.

5933 The Board shall conduct a background investigation, to include a criminal history records search,
5934 which may include a fingerprint-based national criminal history records search, on each applicant for a
5935 license. However, the Board may waive, for good cause shown, the requirement for a criminal history
5936 records search and completed personal data form for officers, directors, nonmanaging members, or limited
5937 partners of any applicant corporation, limited liability company, or limited partnership. In considering
5938 criminal history record information, the Board shall not disqualify an applicant because of a past
5939 conviction for a marijuana-related offense.

5940 The Board shall notify the local governing body of each license application through the town
5941 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
5942 shall submit objections to the granting of a license within 30 days of the filing of the application.

5943 C. Each applicant shall pay the required application fee at the time the application is filed, except
5944 that such fee shall be waived or discounted for qualified social equity applicants pursuant to regulations
5945 promulgated by the Board. The license application fee shall be determined by the Board and shall be in
5946 addition to the actual cost charged to the Department of State Police by the Federal Bureau of Investigation
5947 or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
5948 Investigation or the Central Criminal Records Exchange for each criminal history records search required
5949 by the Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001
5950 and shall not be refunded.

5951 D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
5952 all licensees shall file and maintain with the Board a current, accurate record of the information required
5953 by the Board pursuant to subsection A and notify the Board of any changes to such information in
5954 accordance with Board regulations.

5955 E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
5956 Board. Such permits shall confer upon their holders no authority to make solicitations in the
5957 Commonwealth as otherwise provided by law.

5958 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
5959 for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent
5960 and multiplied by the number of months for which the permit is granted.

5961 F. The Board shall have the authority to increase state license fees. The Board shall set the amount
5962 of such increases on the basis of the consumer price index and shall not increase fees more than once every
5963 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all
5964 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
5965 would be required for any license affected by the Board's proposed fee increases. Such notice shall be
5966 provided on or before November 1 in any year in which the Board has decided to increase state license
5967 fees, and such increases shall become effective July 1 of the following year.

5968 **§ 4.1-1001. Fees for state licenses.**

5969 A. The annual fees on state licenses shall be determined by the Board.

5970 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
5971 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
5972 the number of months in the license period, and then increased by five percent. Such fee shall not be
5973 refundable, except as provided in § 4.1-1002.

5974 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
5975 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this
5976 subtitle, shall be liable to state merchants' license taxation and other state taxation.

5977 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
5978 purchased in person from the Board if such license is available for purchase online.

5979 **§ 4.1-1002. Refund of state license fee.**

5980 A. The Board may correct erroneous assessments made by it against any person and make refunds
5981 of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are
5982 subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by
5983 any licensee for any license that is subsequently merged or changed into another license during the same
5984 license period. No refund shall be made of any such amount, however, unless made within three years
5985 from the date of collection of the same.

5986 B. In any case where a licensee has changed its name or form of organization during a license
5987 period without any change being made in its ownership, and because of such change is required to pay an
5988 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
5989 paid in excess of the required license fee for such period.

5990 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
5991 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the
5992 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
5993 similar natural disaster or phenomenon.

5994 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
5995 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

5996 **§ 4.1-1003. Marijuana tax; exceptions.**

5997 A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail
5998 marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and
5999 non-retail marijuana products. The tax shall be in addition to any tax imposed under the Virginia Retail
6000 Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local law.

6001 B. The tax shall not apply to any sale:

6002 1. From a marijuana establishment to another marijuana establishment.

6003 2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-
6004 3442.5 et seq.) of the Drug Control Act.

6005 3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§
6006 3.2-4112 et seq.) of Title 3.2.

6007 4. Of a hemp product or regulated hemp product.

6008 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §
6009 4.1-614.

6010 **§ 4.1-1004. Optional local marijuana tax.**

6011 A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003.
6012 The tax shall be in addition to any local sales tax imposed under the Virginia Retail Sales and Use Tax
6013 Act (§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of
6014 Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes
6015 authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable
6016 under § 4.1-1003.

6017 B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this
6018 section shall not apply within the limits of the town.

6019 C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized
6020 by law on a person or property regulated under this subtitle. Nothing in this section shall be construed to
6021 limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in
6022 whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event
6023 flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax
6024 includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

6025 D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the
6026 Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall
6027 take effect on the first day of the second month following its enactment.

6028 E. Any tax levied under this section shall be administered and collected by the Authority in the
6029 same manner as provided for the tax imposed under § 4.1-1003.

6030 F. All revenues remitted to the Authority under this section shall be disposed of as provided in §
6031 4.1-614.

6032 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

6033 A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting
6034 any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth.
6035 The buyer shall not be liable for collecting or remitting the taxes or filing a return.

6036 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or
6037 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written application
6038 by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the
6039 end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension
6040 shall toll the accrual of any interest or penalties under § 4.1-1008.

6041 C. The Authority may accept payment by any commercially acceptable means, including cash,
6042 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
6043 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

6044 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
6045 card, or automated clearinghouse transfer information and use such information for future payments of
6046 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any
6047 payments made under this subsection. The Authority may procure the services of a third-party vendor for
6048 the secure storage of information collected pursuant to this subsection.

6049 E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of
6050 goods or quits the business, such person shall make a final return and payment within 15 days after the
6051 date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient
6052 of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such
6053 former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes,
6054 penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase
6055 money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and
6056 penalties due and unpaid on account of the operation of the business by any former owner.

6057 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004,
6058 interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes
6059 due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206
6060 and 4.1-1207.

6061 **§ 4.1-1006. Bonds.**

6062 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
6063 of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond,
6064 with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or
6065 that may become due from such person. In lieu of such bond, securities approved by the Authority may
6066 be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer,
6067 and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes
6068 necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such
6069 sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

6070 **§ 4.1-1007. Refunds.**

6071 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §
6072 4.1-1003 or 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or
6073 otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the
6074 consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and
6075 approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession of
6076 a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for
6077 approval of a refund payment from the state treasury to such extent as may be proper.

6078 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
6079 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall
6080 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such
6081 extent as may be proper.

6082 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-
6083 1003 or 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to

6084 a refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The
6085 amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount retained
6086 by the seller after such return of merchandise. In case the tax has not been remitted by the seller, the seller
6087 may deduct the same in submitting his return.

6088 **§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
6089 **penalties.**

6090 A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from
6091 the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent
6092 to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in
6093 court for the collection of such taxes may be begun without assessment, at any time within six years from
6094 such date. The Authority shall not examine any person's records beyond the three-year period of
6095 limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was
6096 required by law to file a return and failed to do so.

6097 B. If any person fails to file a return as required by this section, or files a return that is false or
6098 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
6099 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
6100 days' notice requiring such person to provide any records as it may require relating to the business of such
6101 person for the taxable period. The Authority may require such person or the agents and employees of such
6102 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
6103 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
6104 required return, refuses to provide required records, or refuses to answer interrogatories from the
6105 Authority, the Authority may make an estimated assessment based upon the information available to it
6106 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
6107 The estimated assessment shall be deemed prima facie correct.

6108 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
6109 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
6110 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which

6111 the person's place of business is located or in which the person resides. If the person has no place of
6112 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
6113 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
6114 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment
6115 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
6116 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may
6117 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time
6118 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien
6119 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,
6120 in those instances where the Authority determines that the collection of any tax, penalties, or interest
6121 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may
6122 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given
6123 to the person at his last known address.

6124 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
6125 appeal under § 4.1-1009.

6126 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
6127 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing
6128 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each
6129 of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or
6130 satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It
6131 shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the
6132 Authority. In the event that the person against whom the distraint has been applied subsequently appeals
6133 under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of
6134 payment until the appeal is resolved.

6135 4. A person may petition the Authority after a memorandum of lien has been filed under this
6136 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination

6137 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a
6138 certificate of release of the lien within seven days after such determination is made.

6139 **§ 4.1-1009. Appeals.**

6140 Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action
6141 of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject
6142 to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire
6143 evidential record of the proceedings provided by the Authority in accordance with the Administrative
6144 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding
6145 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by
6146 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in
6147 any such case.

6148 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age**
6149 **or older lawful; penalties.**

6150 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a
6151 person 21 years of age or older may lawfully possess on his person or in any public place not more than
6152 one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation
6153 promulgated by the Board.

6154 B. Any person who possesses on his person or in any public place marijuana or marijuana products
6155 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The
6156 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §
6157 16.1-69.40:2.

6158 C. With the exception of a licensee in the course of his duties related to such licensee's marijuana
6159 establishment, any person who possesses on his person or in any public place (i) more than four ounces
6160 but not more than one pound of marijuana or an equivalent amount of marijuana product as determined
6161 by regulation promulgated by the Board is guilty of a Class 3 misdemeanor and, for a second or subsequent
6162 offense, a Class 2 misdemeanor and (ii) more than one pound of marijuana or an equivalent amount of
6163 marijuana product as determined by regulation promulgated by the Board is guilty of a felony punishable

6164 by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than
6165 \$250,000, or both.

6166 D. With the exception of a licensee in the course of his duties related to such licensee's marijuana
6167 establishment, any person who possesses in his residence or in any place other than a public place more
6168 than four pounds of marijuana or an equivalent amount of marijuana product as determined by regulation
6169 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one
6170 year nor more than 10 years and a fine of not more than \$250,000, or both.

6171 E. The provisions of this section shall not apply to members of federal, state, county, city, or town
6172 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
6173 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
6174 necessary for the performance of their duties.

6175 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

6176 A. Notwithstanding the provisions of subdivision-e (c) of § 18.2-248.1, a person 21 years of age
6177 or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at
6178 no point shall a household contain more than four marijuana plants. For purposes of this section, a
6179 "household" means those individuals, whether related or not, who live in the same house or other place of
6180 residence.

6181 A person may only cultivate marijuana plants pursuant to this section at such person's main place
6182 of residence.

6183 A violation of this subsection shall be punishable as follows:

6184 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a
6185 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class
6186 2 misdemeanor for a third and any subsequent offense;

6187 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

6188 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

6189 4. For possession of more than 100 marijuana plants, a felony punishable by a term of
6190 imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or
6191 both.

6192 B. A person who cultivates marijuana for personal use pursuant to this section shall:

6193 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft,
6194 binoculars, or other optical aids;

6195 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

6196 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
6197 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
6198 under this section.

6199 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The
6200 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §
6201 16.1-69.40:2.

6202 ~~C. A person shall not manufacture marijuana concentrate from home cultivated marijuana. The~~
6203 ~~owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to~~
6204 ~~manufacture marijuana concentrate from home cultivated marijuana within or on that property or land.~~

6205 ~~D. The following penalties or punishments shall be imposed on any person convicted of a violation~~
6206 ~~of this section:~~

6207 ~~1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a~~
6208 ~~civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class~~
6209 ~~2 misdemeanor for a third and any subsequent offense;~~

6210 ~~2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;~~

6211 ~~3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and~~

6212 ~~4. For possession of more than 100 marijuana plants, a felony punishable by a term of~~
6213 ~~imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or~~
6214 ~~both.~~

6215 § 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products;
6216 conspiracy; penalties.

6217 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or
6218 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
6219 subtitle to cultivate or manufacture such marijuana or marijuana products.

6220 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

6221 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
6222 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such
6223 conspiracy is guilty of a Class 6 felony.

6224 § 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.

6225 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons
6226 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in
6227 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the
6228 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
6229 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods
6230 or services.

6231 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
6232 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
6233 subsection C, he is guilty of a Class 2 misdemeanor.

6234 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

6235 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
6236 does not exceed one ounce or of an equivalent amount of marijuana products.

6237 § 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of
6238 legal age; penalties.

6239 A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or
6240 marijuana products to any individual when at the time of such sale he knows or has reason to believe that

6241 the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person
6242 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6243 B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the
6244 intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person
6245 who violates this subsection is guilty of a Class 1 misdemeanor.

6246 C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine,
6247 handbill, or other publication any advertisement, knowing or under circumstances where one reasonably
6248 should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana
6249 paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty
6250 of a Class 1 misdemeanor.

6251 D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an
6252 individual who is younger than 21 years of age and at the time of the sale does not require the individual
6253 to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty
6254 of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or
6255 reasonably appears to be an unexpired driver's license issued by any state of the United States or the
6256 District of Columbia, military identification card, United States passport or foreign government visa,
6257 unexpired special identification card issued by the Department of Motor Vehicles, or any other valid
6258 government-issued identification card bearing the individual's photograph, signature, height, weight, and
6259 date of birth, or which bears a photograph that reasonably appears to match the appearance of the
6260 purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes
6261 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3
6262 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take administrative action
6263 against a licensee for the conduct of his employee who violates this subsection.

6264 E. No person shall be convicted of both subsections A and D for the same sale.

6265 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
6266 **exceptions; penalties; forfeiture; treatment and education programs and services.**

6267 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under
6268 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any
6269 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-
6270 enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the
6271 performance of his duties. Such person may be prosecuted either in the county or city in which the
6272 marijuana or marijuana products were possessed or consumed or in the county or city in which the person
6273 exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

6274 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
6275 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
6276 if available, that in the opinion of the court best suits the needs of the accused.

6277 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who
6278 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
6279 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion
6280 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-
6281 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

6282 D. Any such substance abuse treatment or education program to which a juvenile is ordered
6283 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral
6284 Health and Developmental Services or (ii) a similar program available through a facility or program
6285 operated by or under contract with the Department of Juvenile Justice or a locally operated court services
6286 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et
6287 seq.). Any such substance abuse treatment or education program to which a person 18 years of age or
6288 older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of
6289 Behavioral Health and Developmental Services or (b) a program or services made available through a
6290 community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of
6291 Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local
6292 community-based probation services agency, the local community-based probation services agency shall

6293 be responsible for providing for services or referring the offender to education or treatment services as a
6294 condition of probation.

6295 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
6296 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years
6297 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a
6298 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth
6299 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued
6300 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth
6301 certificate, or student identification card of another person in order to establish a false identification or
6302 false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail
6303 marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1
6304 misdemeanor.

6305 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
6306 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

6307 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
6308 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
6309 immunity from an administrative penalty for a violation of § 4.1-1104.

6310 **§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases;**
6311 **venue; exceptions; penalties; treatment and education programs and services.**

6312 A. No person younger than 21 years of age shall consume or possess, or attempt to consume or
6313 possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement
6314 officer or his agent when possession of marijuana or marijuana products is necessary in the performance
6315 of his duties. Such person may be prosecuted either in the county or city in which the marijuana or
6316 marijuana products were possessed or consumed or in the county or city in which the person exhibits
6317 evidence of physical indicia of consumption of marijuana or marijuana products.

6318 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
6319 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
6320 if available, that in the opinion of the court best suits the needs of the accused.

6321 C. Any Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile
6322 who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
6323 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion
6324 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-
6325 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

6326 D. Any such substance abuse treatment or education program to which a person is ordered pursuant
6327 to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and
6328 Developmental Services or (ii) a program or services made available through a community-based
6329 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if
6330 one has been established for the locality. When an offender is ordered to a local community-based
6331 probation services agency, the local community-based probation services agency shall be responsible for
6332 providing for services or referring the offender to education or treatment services as a condition of
6333 probation.

6334 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
6335 Assessment and Treatment Fund established pursuant to § 18.2-251.02.

6336 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they**
6337 **may not be sold; penalties; forfeiture.**

6338 A. Any person who purchases retail marijuana or retail marijuana products for another person and
6339 at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana
6340 or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

6341 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
6342 marijuana or retail marijuana products to, another person when he knows or has reason to know that such
6343 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when

6344 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
6345 Class 1 misdemeanor.

6346 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
6347 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

6348 **§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle**
6349 **being driven upon a public highway; penalty.**

6350 A. ~~For the purposes of this section:~~

6351 ~~"Open container" means any vessel containing marijuana or marijuana products, except the~~
6352 ~~originally sealed manufacturer's container.~~

6353 ~~"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within~~
6354 ~~the reach of the driver, including an unlocked glove compartment, and the area designed to seat~~
6355 ~~passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last~~
6356 ~~upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the~~
6357 ~~living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used~~
6358 ~~primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while~~
6359 ~~engaged in the transportation of such persons.~~

6360 B. It is unlawful for any person to use or consume marijuana or marijuana products while driving
6361 a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor
6362 vehicle being driven upon a public highway of the Commonwealth.

6363 ~~C.~~ B. A judge or jury may make a permissive inference that a person has consumed marijuana or
6364 marijuana products in violation of this section if (i) an open container is the marijuana or marijuana
6365 products are located within the reach of the driver or passenger area of the motor vehicle, (ii) the marijuana
6366 or marijuana products ~~in the open container have been at least partially removed~~ are not secured in a closed
6367 container, compartment, or vessel, and (iii) the appearance, conduct, speech, or other physical
6368 characteristic of such person, excluding odor, is consistent with the consumption of marijuana or
6369 marijuana products. Such person may be prosecuted either in the county or city in which the marijuana

6370 was used or consumed, or in the county or city in which the person exhibits evidence of physical indicia
6371 of use or consumption of marijuana.

6372 ~~D.C.~~ Any person who violates this section is guilty of a Class 4 misdemeanor.

6373 **§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public**
6374 **place; penalty.**

6375 A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana
6376 product to another, whether accepted or not, at or in any public place.

6377 B. Any person who violates this section is subject to a civil penalty of no more than \$25 ~~for a first~~
6378 ~~offense. A person who is convicted under this section of a second offense is subject to a \$25 civil penalty~~
6379 ~~and shall be ordered to enter a substance abuse treatment or education program or both, if available, that~~
6380 ~~in the opinion of the court best suits the needs of the accused. A person convicted under this section of a~~
6381 ~~third or subsequent offense is guilty of a Class 4 misdemeanor.~~

6382 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana**
6383 **products; penalty; exception.**

6384 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the
6385 Commonwealth.

6386 B. Any person convicted of a violation of this section shall be subject to a civil penalty of no more
6387 than \$25. The penalty for any violations of this section by an adult shall be prepayable according to the
6388 procedures in § 16.1-69.40:2.

6389 **§ 4.1-1113. Maintaining common nuisances; penalties.**

6390 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
6391 every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given
6392 away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.

6393 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
6394 nuisance.

6395 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6396 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
6397 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305
6398 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat,
6399 car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving
6400 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that
6401 the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a
6402 period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as
6403 provided in § 4.1-1305.

6404 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
6405 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
6406 had the right, because of such unlawful use, to enter and repossess the property.

6407 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

6408 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
6409 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
6410 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
6411 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing
6412 or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug
6413 house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

6414 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

6415 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
6416 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
6417 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
6418 to hold and conduct such hearing.

6419 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6420 **§ 4.1-1116. Illegal advertising; penalty; exception.**

6421 A. Except in accordance with this title and Board regulations, no person shall advertise in or send
6422 any advertising matter into the Commonwealth about or concerning marijuana other than such that may
6423 legally be manufactured or sold without a license.

6424 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana
6425 wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail
6426 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is
6427 done in accordance with § 4.1-1405 and Board regulations.

6428 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty
6429 of a Class 1 misdemeanor.

6430 D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising,
6431 the Board shall give the advertiser written notice to take corrective action to either bring the advertisement
6432 into compliance with this title and Board regulations or to remove such advertisement. If corrective action
6433 is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

6434 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

6435 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
6436 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
6437 correctional center any marijuana or marijuana products.

6438 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6439 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

6440 A. No person shall separate plant resin by butane extraction or another method that utilizes a
6441 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
6442 the curtilage of any residential structure.

6443 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6444 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

6445 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another
6446 in doing, or attempting to do, any of the things prohibited by this subtitle.

6447 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court
6448 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
6449 as if the defendant were solely guilty of such violation.

6450 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

6451 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in
6452 the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be
6453 proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under
6454 this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such
6455 violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this
6456 section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed
6457 pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the
6458 Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

6459 CHAPTER 12.

6460 PROHIBITED PRACTICES BY LICENSEES.

6461 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

6462 A. No licensee or any agent or employee of such licensee shall:

6463 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
6464 of a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture,
6465 transport, sell, or test;

6466 2. Sell retail marijuana or retail marijuana products to any person other than a person to whom
6467 such license or this subtitle authorizes him to sell;

6468 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that
6469 such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license
6470 or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

6471 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
6472 when forbidden by this subtitle;

6473 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana
6474 or retail marijuana products other than that which he is authorized to cultivate, manufacture, transport,
6475 sell, or test by such license or by this subtitle;

6476 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was
6477 purchased by him; or

6478 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee
6479 at a retail marijuana store.

6480 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6481 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

6482 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
6483 employee shall consume any retail marijuana or retail marijuana products while on duty and in a position
6484 that is involved in the selling of retail marijuana or retail marijuana products to consumers.

6485 B. No retail marijuana store licensee or his agent or employee shall make any gift of any retail
6486 marijuana or retail marijuana products.

6487 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
6488 amount not to exceed \$500.

6489 **§ 4.1-1202. Sale of; purchase for resale; retail marijuana or retail marijuana products from**
6490 **a person without a license; penalty.**

6491 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
6492 resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
6493 seeds purchased from anyone other than a marijuana cultivation facility, marijuana manufacturing facility,
6494 or marijuana wholesaler licensee.

6495 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6496 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by**
6497 **licensees; penalty.**

6498 A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products
6499 from one licensed place of business to another licensed place of business, whether or not such places of
6500 business are under the same ownership.

6501 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6502 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

6503 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
6504 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
6505 decorations under circumstances prohibited by this title or Board regulations.

6506 Any person found by the Board to have violated this section shall be subject to a civil penalty as
6507 authorized in § 4.1-903.

6508 **§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of retail marijuana or**
6509 **retail marijuana products; penalty.**

6510 A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of
6511 retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon such
6512 conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store
6513 licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in
6514 any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail
6515 marijuana products in which such person may be so interested.

6516 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate
6517 the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful
6518 solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana
6519 or retail marijuana products manufactured or distributed by either the employer or principal of such
6520 solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may impose
6521 a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

6522 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6523 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person
6524 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
6525 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

6526 The Board may suspend or revoke the license granted to such licensee or may impose a civil
6527 penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

6528 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6529 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
6530 **accounts or to allow examination and inspection; penalty.**

6531 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii)
6532 deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board
6533 regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined and
6534 inspected in accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of
6535 a Class 1 misdemeanor.

6536 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
6537 may suspend or revoke any license of such licensee that was issued by the Authority.

6538 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

6539 A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable
6540 taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive,
6541 transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason
6542 to know such tax has not been paid and may not be paid. Any person convicted of a violation of this
6543 subsection is guilty of a Class 1 misdemeanor.

6544 B. Any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004 is
6545 subject to a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the
6546 failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction
6547 thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

6548 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
6549 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50

6550 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any
6551 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the
6552 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the
6553 actual amount.

6554 D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not
6555 paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority
6556 the amount due within five days after the Authority gives it notice that such check was returned unpaid,
6557 the person that tendered the check is guilty of a violation of § 18.2-182.1.

6558 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
6559 manner as if they were a part of the tax imposed.

6560 **§ 4.1-1300. Enjoining nuisances.**

6561 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney
6562 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined
6563 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
6564 nuisance.

6565 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
6566 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
6567 marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such
6568 house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an
6569 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and
6570 restrain the owners and tenants and their agents and employees, and any person connected with such
6571 house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing,
6572 selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The
6573 injunction shall also restrain all persons from removing any marijuana or marijuana products then on such
6574 premises until the further order of the court. If the court is satisfied that the material allegations of the bill
6575 are true, although the premises complained of may not then be unlawfully used, it shall continue the

6576 injunction against such place for a period of time as the court deems proper. The injunction may be
6577 dissolved if a proper case is shown for dissolution.

6578 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to**
6579 **forfeiture.**

6580 A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana
6581 products, all marijuana or marijuana products and materials used in their manufacture, all containers in
6582 which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any manner
6583 used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308
6584 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid
6585 such person in the unlawful cultivation, manufacture, transportation, or sale of marijuana or marijuana
6586 products, or found in the possession of such person, or any horse, mule, or other beast of burden or any
6587 wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of
6588 any place where marijuana or marijuana products are being unlawfully manufactured and where such
6589 animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall
6590 be forfeited to the Commonwealth.

6591 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
6592 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with
6593 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

6594 **§ 4.1-1303. Search warrants.**

6595 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,
6596 manufactured, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other
6597 place, in violation of law, the judge, magistrate, or other person having authority to issue criminal
6598 warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall
6599 issue a warrant to search such house or other place for marijuana or marijuana products. Such warrants,
6600 except as herein otherwise provided, shall be issued, directed, and executed in accordance with the laws
6601 of the Commonwealth pertaining to search warrants.

6602 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or
6603 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or
6604 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they
6605 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,
6606 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be
6607 transported contrary to law.

6608 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

6609 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
6610 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

6611 B. Production of seized property. Whenever any article declared contraband under the provisions
6612 of this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a
6613 warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband
6614 article and any person in whose possession it was found. In those cases where no person is found in
6615 possession of such articles, the return shall so state and a copy of the warrant shall be posted on the door
6616 of the buildings or room where the articles were found, or if there is no door, then in any conspicuous
6617 place upon the premises.

6618 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
6619 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
6620 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
6621 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
6622 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
6623 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,
6624 and the materials remaining after such destruction. The report shall include a statement that, from facts
6625 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set
6626 up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was
6627 impracticable to remove such apparatus to a place of safe storage.

6628 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
6629 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
6630 for the purpose of unlawful cultivation or manufacture of marijuana or marijuana products or any other
6631 violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such
6632 witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The
6633 report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a
6634 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt
6635 whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation or
6636 manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

6637 C. Hearing and determination. Upon the return of the warrant as provided in this section, the court
6638 shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days
6639 thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof,
6640 were used or in any manner kept, stored, or possessed in violation of this subtitle.

6641 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
6642 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
6643 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
6644 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
6645 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
6646 determine the validity of such claim.

6647 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
6648 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
6649 not be a bar to any prosecution under any other provision of this subtitle.

6650 D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over
6651 to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper.
6652 The net proceeds from such sales shall be paid into the Literary Fund.

6653 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
6654 Board in accordance with this section are usable, should not be destroyed, and cannot be sold or whose

6655 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
6656 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
6657 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
6658 date when given and shall be kept in the offices of the Board.

6659 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

6660 A. When any officer charged with the enforcement of the cannabis control laws of the
6661 Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired,
6662 or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water,
6663 except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car or a
6664 steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search
6665 such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail
6666 marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-
6667 half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail
6668 marijuana product, the officer shall seize the retail marijuana or retail marijuana product, seize and take
6669 possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the
6670 locality in which such seizure was made, taking his receipt therefor in duplicate.

6671 B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the
6672 attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

6673 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

6674 Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed
6675 contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other
6676 indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail
6677 marijuana products within the Commonwealth when other Board regulations applicable to such
6678 transportation have been complied with shall not be cause for deeming such retail marijuana or retail
6679 marijuana products contraband.

6680 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

6681 A. Any person convicted of a misdemeanor under the provisions of this subtitle without
6682 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
6683 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

6684 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any
6685 person is convicted of a violation of any provision of this subtitle may require such defendant to execute
6686 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
6687 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one
6688 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,
6689 or until he is discharged by the court, provided that he shall not be confined for a period longer than six
6690 months. If any such bond required by a court is not given during the term of the court by which conviction
6691 is had, it may be given before any judge or before the clerk of such court.

6692 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or
6693 refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

6694 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
6695 assistant has been notified that such a case is pending.

6696 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

6697 No person shall be excused from testifying for the Commonwealth as to any offense committed
6698 by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given
6699 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
6700 used against him and he shall not be prosecuted for the offense to which he testifies.

6701 **§ 4.1-1309. Previous convictions.**

6702 In any indictment, information, or warrant charging any person with a violation of any provision
6703 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
6704 such person has been previously convicted of a violation of this subtitle.

6705 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

6706 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board
6707 or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts

6708 therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements
6709 of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of
6710 the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the
6711 accused or any party in interest, the court may require the forensic scientist making the analysis to appear
6712 as a witness and be subject to cross-examination, provided such motion is made within a reasonable time
6713 prior to the day on which the case is set for trial.

6714 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

6715 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
6716 retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana
6717 content of the container. Nothing shall preclude the introduction of other relevant evidence to establish
6718 the marijuana content of a container, whether sealed or not.

6719 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

6720 No action to recover the price of any retail marijuana or retail marijuana products sold in
6721 contravention of this subtitle may be maintained.

6722 CHAPTER 14.

6723 CANNABIS AND REGULATED HEMP PRODUCT CONTROL, TESTING, AND ADVERTISING.

6724 **§ 4.1-1400. Board to establish regulations for marijuana and regulated hemp product testing.**

6725 The Board shall establish a testing program for marijuana, marijuana products, and regulated hemp
6726 products. Except as otherwise provided in this subtitle or otherwise provided by law, the program shall
6727 require a licensee, prior to selling or distributing retail marijuana or a retail marijuana product to a
6728 consumer or to another licensee, or any persons, prior to selling a regulated hemp product, to submit a
6729 representative sample of the retail marijuana, retail marijuana product, or regulated hemp product, not to
6730 exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure
6731 that the retail marijuana, retail marijuana product, or regulated hemp product does not exceed the
6732 maximum level of allowable contamination for any contaminant that is injurious to health and for which
6733 testing is required and to ensure correct labeling. The Board shall adopt regulations (i) establishing a
6734 testing program pursuant to this section; (ii) establishing acceptable testing and research practices.

6735 including regulations relating to testing practices, methods, and standards; quality control analysis;
6736 equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and
6737 business practices; disposal of used, unused, and waste retail marijuana, retail marijuana products, and
6738 regulated hemp products; and reporting of test results; (iii) identifying the types of contaminants that are
6739 injurious to health for which retail marijuana, retail marijuana products, and regulated hemp products shall
6740 be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for each
6741 contaminant.

6742 **§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not**
6743 **required; required destruction; random testing.**

6744 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
6745 or to another licensee under this subtitle and a person may not sell a regulated hemp product unless a
6746 representative sample of the retail marijuana, retail marijuana product, or regulated hemp product has been
6747 tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that mandatory
6748 testing has demonstrated that (i) the retail marijuana, retail marijuana product, or regulated hemp product
6749 does not exceed the maximum level of allowable contamination for any contaminant that is injurious to
6750 health and for which testing is required and (ii) the labeling on the retail marijuana, retail marijuana
6751 product, or regulated hemp product is correct.

6752 B. Mandatory testing of retail marijuana, retail marijuana products, and regulated hemp products
6753 under this section shall include testing for:

- 6754 1. Residual solvents, poisons, and toxins;
- 6755 2. Harmful chemicals;
- 6756 3. Dangerous molds and mildew;
- 6757 4. Harmful microbes, including but not limited to Escherichia coli and Salmonella;
- 6758 5. Pesticides, fungicides, and insecticides; and
- 6759 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct
6760 labeling.

6761 Testing shall be performed on the final form in which the retail marijuana, retail marijuana product,
6762 or regulated hemp product will be consumed.

6763 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
6764 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the
6765 marijuana testing facility, and the results of the mandatory test. A person who sells a regulated hemp
6766 product shall maintain a record of all mandatory testing that includes a description of the regulated hemp
6767 product that person sells, the identity of the marijuana testing facility, and the results of the mandatory
6768 test.

6769 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
6770 marijuana, retail marijuana product, or regulated hemp product exceeds the maximum level of allowable
6771 tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which
6772 testing is required, the marijuana testing facility shall immediately quarantine, document, and properly
6773 destroy the retail marijuana, retail marijuana product, or regulated hemp product and within seven days of
6774 completing the test shall notify the Board of the test results.

6775 A marijuana testing facility is not required to notify the Board of the results of any test:

6776 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee or
6777 conducted on a regulated hemp product at the direction of any person pursuant to this section that
6778 demonstrates that the retail marijuana or retail marijuana product does not exceed the maximum level of
6779 allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health
6780 and for which testing is required;

6781 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee or
6782 conducted on a regulated hemp product at the direction of any person for research and development
6783 purposes only, so long as the licensee or person notifies the marijuana testing facility prior to the
6784 performance of the test that the testing is for research and development purposes only; or

6785 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
6786 not a licensee.

6787 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
6788 licensee retail marijuana or a retail marijuana product or a person may sell a regulated hemp product that
6789 the licensee or person has not submitted for testing in accordance with this subtitle and regulations adopted
6790 pursuant to this subtitle if the following conditions are met:

6791 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
6792 with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee or
6793 the regulated hemp product has previously undergone testing in accordance with this subtitle and
6794 regulations adopted pursuant to this subtitle at the direction of another person and that testing
6795 demonstrated that the retail marijuana, retail marijuana product, or regulated hemp product does not
6796 exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any
6797 contaminant that is injurious to health and for which testing is required;

6798 2. The mandatory testing process and the test results for the retail marijuana, retail marijuana
6799 product, or regulated hemp product are documented in accordance with the requirements of this subtitle
6800 and all applicable regulations adopted pursuant to this subtitle;

6801 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
6802 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product
6803 to another licensee or to a consumer can be easily identified; and

6804 4. The retail marijuana, retail marijuana product, or regulated hemp product has not undergone any
6805 further processing, manufacturing, or alteration subsequent to the performance of the prior testing under
6806 subsection A.

6807 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
6808 marijuana products and any person shall be required to destroy any batch of a regulated hemp product
6809 whose testing samples indicate noncompliance with the health and safety standards required by this
6810 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can
6811 bring the retail marijuana, retail marijuana products, or regulated hemp products into compliance with
6812 such required health and safety standards.

6813 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana
6814 products and a person shall comply with all requests for samples of regulated hemp products for the
6815 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

6816 **§ 4.1-1402. Labeling and packaging requirements; prohibitions.**

6817 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
6818 consumer or regulated hemp products to be sold or offered for sale by a person in accordance with the
6819 provisions of this subtitle shall be labeled with the following information:

6820 1. Identification of the type of retail marijuana, retail marijuana product, or regulated hemp product
6821 and the date of cultivation, manufacturing, and packaging;

6822 2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility,
6823 and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated,
6824 manufactured, and offered for sale, as applicable;

6825 3. A statement of the net weight of the retail marijuana, retail marijuana product, or regulated hemp
6826 product;

6827 4. Information concerning (i) pharmacologically active ingredients, including
6828 tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other
6829 cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other
6830 cannabinoid amount in milligrams for the total package; and (iii) the potency of the THC and other
6831 cannabinoid content;

6832 5. Information on gases, solvents, and chemicals used in marijuana extraction or the processing of
6833 a regulated hemp product, if applicable;

6834 6. Instructions on usage;

6835 7. For retail marijuana products and regulated hemp product, (i) a list of ingredients and possible
6836 allergens and (ii) a recommended use by date or expiration date;

6837 8. For edible marijuana products and edible hemp products, a nutritional fact panel;

6838 9. The following statement, prominently displayed in bold print and in a clear and legible fashion:

6839 "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR

6840 USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN.
 6841 CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND
 6842 MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR
 6843 BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board
 6844 pursuant to § 4.1-604) FOR MORE INFORMATION.";

6845 10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail
 6846 marijuana products; and

6847 11. Any other information required by Board regulations.

6848 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
 6849 consumer in accordance with the provisions of this subtitle and regulated hemp products to be sold or
 6850 offered for sale by a person in accordance with the provisions of this subtitle shall be packaged in the
 6851 following manner:

6852 1. Retail marijuana, retail marijuana products, and regulated hemp products shall be prepackaged
 6853 in child-resistant, tamper-evident, and resealable packaging that is opaque or shall be placed at the final
 6854 point of sale to a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

6855 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
 6856 component; and

6857 3. Packaging shall comply with any other requirements imposed by Board regulations.

6858 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
 6859 consumer in accordance with the provisions of this subtitle shall not:

6860 1. Be labeled or packaged in violation of a federal trademark law or regulation;

6861 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
 6862 of age;

6863 3. Be labeled or packaged in a manner that obscures identifying information on the label;

6864 4. Be labeled or packaged using a false or misleading label;

6865 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle,
 6866 or fruit; and

6867 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
6868 by Board regulations.

6869 **§ 4.1-1403. Other health and safety requirements for edible marijuana products, edible hemp**
6870 **products, and other retail marijuana products deemed applicable by the Authority; health and**
6871 **safety regulations.**

6872 A. Requirements and restrictions for edible marijuana products, edible hemp products, and other
6873 retail marijuana products deemed applicable by the Authority. In addition to all other applicable provisions
6874 of this subtitle, edible marijuana products and other retail marijuana products deemed applicable by the
6875 Authority to be sold or offered for sale by a licensee to a consumer and edible hemp products deemed
6876 applicable by the Authority to be sold or offered for sale by a person in accordance with this subtitle:

6877 1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;
6878 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;
6879 3. Shall be manufactured in a manner that results in the cannabinoid content within the product
6880 being homogeneous throughout the product or throughout each element of the product that has a
6881 cannabinoid content;

6882 4. Shall be manufactured in a manner that results in the amount of marijuana concentrate or
6883 industrial hemp extract, as appropriate, within the product being homogeneous throughout the product or
6884 throughout each element of the product that contains marijuana concentrate or industrial hemp extract, as
6885 appropriate;

6886 5. Shall have a universal symbol stamped or embossed on the packaging of each product;
6887 6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the
6888 product and shall not contain more than 50 milligrams of THC per package of the product, except for
6889 edible hemp products, which shall not exceed the maximum tetrahydrocannabinol level established for a
6890 regulated hemp product pursuant to § 4.1-606;

6891 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
6892 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to

6893 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
6894 than 21 years of age; and

6895 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
6896 the trademarked product is used as a component of or ingredient in the edible marijuana product and the
6897 edible marijuana product is not advertised or described for sale as containing the trademarked product.

6898 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or
6899 other health and safety regulations that it deems necessary for retail marijuana and retail marijuana
6900 products to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle or
6901 regulated hemp products to be sold or offered for sale by a person in accordance with this subtitle.
6902 Regulations adopted pursuant to this subsection shall establish mandatory health and safety standards
6903 applicable to the cultivation of retail marijuana, the manufacture of retail marijuana products, the
6904 processing of regulated hemp products, the packaging and labeling of retail marijuana and retail marijuana
6905 products sold by a licensee to a consumer, and the packaging and labeling of regulated hemp products
6906 sold by a person to any other person. Such regulations shall address:

6907 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail
6908 marijuana products by licensees;

6909 2. Sanitary standards for marijuana establishments, including sanitary standards for the
6910 manufacture of retail marijuana, retail marijuana products, and regulated hemp products; and

6911 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana
6912 stores.

6913 **§ 4.1-1404. Advertising and marketing restrictions.**

6914 A. As used in this section, unless the context requires a different meaning, "health-related
6915 statement" means any statement related to health and includes statements of a curative or therapeutic
6916 nature that, expressly or by implication, suggest a relationship between the consumption of retail
6917 marijuana or retail marijuana products and health benefits or effects on health.

6918 B. No person shall advertise in or send any advertising matter into the Commonwealth about or
6919 concerning retail marijuana or retail marijuana products other than those that may be legally manufactured
6920 in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

6921 C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience
6922 is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience
6923 composition data or (ii) on television or the radio at any time outside of regular school hours for elementary
6924 and secondary schools.

6925 D. A licensee shall not engage in the use of pop-up digital advertisements but may list their
6926 establishment in public phone books and directories.

6927 E. A licensee shall not display any retail marijuana or retail marijuana product pricing through any
6928 means of advertisement other than their establishment website, which shall be registered with the
6929 Authority, or an opt-in subscription-based service, provided that the licensee utilizes proper age
6930 verification techniques to confirm that the person attempting to access the website or sign up for a
6931 subscription-based service is 21 years of age or older.

6932 F. Advertising or marketing used by or on behalf of a licensee:

6933 1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a
6934 minimum, the licensee's license number and shall include the following statement: "For use by adults 21
6935 years of age and older";

6936 2. Shall not be misleading, deceptive, or false;

6937 3. Shall not appeal particularly to persons younger than 21 years of age, including by using
6938 cartoons in any way;

6939 4. Shall not imply that marijuana or marijuana products enhance athletic prowess; imply that any
6940 marijuana or marijuana product is government endorsed; make any reference to the intoxicating effects of
6941 marijuana or marijuana products; depict a person consuming marijuana or marijuana products; or depict
6942 any person younger than 21 years of age; and

6943 5. Shall comply with any other provisions imposed by Board regulations.

6944 G. Any advertising or marketing involving direct, individualized communication or dialogue
6945 controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years
6946 of age or older before engaging in that communication or dialogue controlled by the licensee. For the
6947 purposes of this subsection, such method of age affirmation may include user confirmation, birth date
6948 disclosure, or any other similar registration method.

6949 H. A licensee shall not (i) give away any amount of retail marijuana, retail marijuana products, or
6950 marijuana accessories as part of a business promotion or other commercial activity, (ii) create any contest
6951 or sweepstakes that conditions entry on the purchase of retail marijuana, retail marijuana products, or
6952 marijuana accessories, or (iii) offer to provide anything of value conditioned on the purchase of retail
6953 marijuana, retail marijuana products, or marijuana accessories.

6954 I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or
6955 publish or disseminate advertising or marketing containing any health-related statement that is untrue in
6956 any particular manner or tends to create a misleading impression as to the effects on health of marijuana
6957 consumption.

6958 J. The provisions of this section shall not apply to noncommercial speech.

6959 K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market
6960 and notify the public of the location of marijuana establishments.

6961 **§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

6962 A. No outdoor retail marijuana or retail marijuana products advertising shall be placed (i) on
6963 property zoned exclusively for agricultural or residential uses or on unzoned property or (ii) within 1,000
6964 linear feet of (a) a public, private, or parochial school or an institution of higher education; (b) a public or
6965 private playground or similar recreational or child-centered facility; (c) a substance use disorder treatment
6966 facility; (d) a place of religious worship; or (e) a residential dwelling. Measurements pursuant to this
6967 section shall be taken from the nearest edge of the sign face upon which the advertisement is placed to the
6968 nearest edge of the closest building or structure located on the real property of the entity set forth above;
6969 however, if there is no building or structure, the measurement shall be taken from the nearest edge of the
6970 sign face upon which the advertisement is placed to the nearest property line.

6971 B. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from
6972 an entity set forth in subsection A but the circumstances change such that the advertisement would
6973 otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed
6974 for the remainder of the term of any written advertising contract, but in no event more than one year from
6975 the date of the change in circumstances.

6976 C. Provided that such signs are in compliance with local ordinances, the distance and zoning
6977 restrictions contained in this section shall not apply to:

6978 1. Signs placed by licensees upon the property on which the licensed premises are located so long
6979 as such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-
6980 discharge tubes that contain rarefied neon or other gases; or

6981 2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler
6982 licensees with advertising limited to trade names and brand names.

6983 D. The distance and zoning restrictions contained in this section shall not apply to any sign that is
6984 included in the Integrated Directional Sign Program administered by the Virginia Department of
6985 Transportation or its agents.

6986 E. A marijuana licensee shall not advertise at any sporting event or use any billboard
6987 advertisements in the Commonwealth.

6988 F. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply
6989 with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and
6990 regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and
6991 regulations. Further, any outdoor retail marijuana products directional sign located or to be located on
6992 highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program
6993 administered by the Virginia Department of Transportation or its agents and federal laws and regulations.

6994 **§ 4.1-1406. Regulated hemp products; violations; penalties.**

6995 For any violation of a requirement of this chapter or Chapter 6 of this subtitle, or of any regulation
6996 promulgated thereunder, pertaining to a regulated hemp product, the Authority may assess a penalty not
6997 to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or

6998 subsequent violation. All penalties collected by the Authority pursuant to this section shall be deposited
6999 in the state treasury.

7000 **§ 4.1-1407. Hemp product not retail marijuana or retail marijuana product.**

7001 A regulated hemp product that is tested, labeled, packaged, and advertised in accordance with the
7002 provisions pertaining to a regulated hemp product in this chapter or Chapter 6 of this subtitle, or in any
7003 regulation promulgated thereunder, shall not be subject to the requirements in this subtitle or regulations
7004 adopted thereunder that pertain only to retail marijuana or retail marijuana products.

7005 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or**
7006 **marijuana; reckless operation; penalties.**

7007 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
7008 lands or waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any
7009 narcotic or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a
7010 state correctional facility not less than one nor more than five years, or, in the discretion of the court or
7011 jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or
7012 both such fine and imprisonment.

7013 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
7014 lands or waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the
7015 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
7016 any person or property, ~~shall be~~ is guilty of a misdemeanor.

7017 **§ 6.2-108. Financial services for licensed marijuana establishments.**

7018 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
7019 provided in § 4.1-600.

7020 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
7021 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
7022 any state law or regulation solely for providing such a financial service or for further investing any income
7023 derived from such a financial service.

7024 C. Nothing in this section shall require a bank or credit union to provide financial services to a
7025 licensed marijuana establishment.

7026 **§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**

7027 **Definitions.**

7028 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context
7029 requires a different meaning:

7030 "Administration of criminal justice" means performance of any activity directly involving the
7031 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
7032 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
7033 storage, and dissemination of criminal history record information.

7034 "Board" means the Criminal Justice Services Board.

7035 "Conviction data" means information in the custody of any criminal justice agency relating to a
7036 judgment of conviction, and the consequences arising therefrom, in any court.

7037 "Correctional status information" means records and data concerning each condition of a convicted
7038 person's custodial status, including probation, confinement, work release, study release, escape, or
7039 termination of custody through expiration of sentence, parole, pardon, or court decision.

7040 "Criminal history record information" means records and data collected by criminal justice
7041 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
7042 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
7043 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
7044 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
7045 status information.

7046 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
7047 which as its principal function performs the administration of criminal justice and any other agency or
7048 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
7049 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
7050 the context of its criminal justice activities, employs special conservators of the peace appointed under

7051 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
7052 its officers or special conservators to meet compulsory training standards established by the Criminal
7053 Justice Services Board and submits reports of compliance with the training standards and (b) the private
7054 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
7055 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
7056 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
7057 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
7058 Violent Predators Act (§ 37.2-900 et seq.).

7059 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
7060 to § 18.2-271.2.

7061 "Criminal justice agency" includes the Department of Criminal Justice Services.

7062 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

7063 "Criminal justice agency" includes the Virginia State Crime Commission.

7064 "Criminal justice information system" means a system including the equipment, facilities,
7065 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
7066 dissemination of criminal history record information. The operations of the system may be performed
7067 manually or by using electronic computers or other automated data processing equipment.

7068 "Department" means the Department of Criminal Justice Services.

7069 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
7070 means. The term shall not include access to the information by officers or employees of a criminal justice
7071 agency maintaining the information who have both a need and right to know the information.

7072 "Law-enforcement officer" means any full-time or part-time employee of a police department or
7073 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
7074 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
7075 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
7076 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
7077 Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of

7078 § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time
7079 sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who
7080 is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the
7081 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
7082 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-
7083 217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police
7084 officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the
7085 investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
7086 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with
7087 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
7088 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
7089 police officer employed by a private police department. Part-time employees are those compensated
7090 officers who are not full-time employees as defined by the employing police department, sheriff's office,
7091 or private police department.

7092 "Private police department" means any police department, other than a department that employs
7093 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
7094 authorized by statute or an act of assembly to establish a private police department or such entity's
7095 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
7096 to operate a private police department or represent that it is a private police department unless such entity
7097 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
7098 that has been authorized pursuant to this section, provided it complies with the requirements set forth
7099 herein. The authority of a private police department shall be limited to real property owned, leased, or
7100 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
7101 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
7102 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
7103 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
7104 with the private police department that addresses the duties and responsibilities of the private police

7105 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
7106 departments and private police officers shall be subject to and comply with the Constitution of the United
7107 States; the Constitution of Virginia; the laws governing municipal police departments, including the
7108 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
7109 1722; and any regulations adopted by the Board that the Department designates as applicable to private
7110 police departments. Any person employed as a private police officer pursuant to this section shall meet all
7111 requirements, including the minimum compulsory training requirements, for law-enforcement officers
7112 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
7113 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
7114 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
7115 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
7116 locality. An authorized private police department may use the word "police" to describe its sworn officers
7117 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
7118 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not
7119 otherwise established by statute or an act of assembly and whose status as a private police department was
7120 recognized by the Department at that time is hereby validated and may continue to operate as a private
7121 police department as may such entity's successor in interest, provided it complies with the requirements
7122 set forth herein.

7123 "School resource officer" means a certified law-enforcement officer hired by the local law-
7124 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
7125 secondary schools.

7126 "School security officer" means an individual who is employed by the local school board or a
7127 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
7128 investigating violations of the policies of the school board or the private or religious school, and detaining
7129 students violating the law or the policies of the school board or the private or religious school on school
7130 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
7131 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

7132 "Unapplied criminal history record information" means information pertaining to criminal
7133 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
7134 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
7135 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
7136 the content of the submitted information.

7137 § 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)

7138 **Definitions.**

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7140 requires a different meaning:

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7142 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
7143 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
7144 storage, and dissemination of criminal history record information.

7145 "Board" means the Criminal Justice Services Board.

7146 "Conviction data" means information in the custody of any criminal justice agency relating to a
7147 judgment of conviction, and the consequences arising therefrom, in any court.

7148 "Correctional status information" means records and data concerning each condition of a convicted
7149 person's custodial status, including probation, confinement, work release, study release, escape, or
7150 termination of custody through expiration of sentence, parole, pardon, or court decision.

7151 "Criminal history record information" means records and data collected by criminal justice
7152 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
7153 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
7154 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
7155 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
7156 status information.

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7158 which as its principal function performs the administration of criminal justice and any other agency or

7159 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
7160 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
7161 the context of its criminal justice activities, employs special conservators of the peace appointed under
7162 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
7163 its officers or special conservators to meet compulsory training standards established by the Criminal
7164 Justice Services Board and submits reports of compliance with the training standards and (b) the private
7165 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
7166 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
7167 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
7168 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
7169 Violent Predators Act (§ 37.2-900 et seq.).

7170 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
7171 to § 18.2-271.2.

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7176 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
7177 dissemination of criminal history record information. The operations of the system may be performed
7178 manually or by using electronic computers or other automated data processing equipment.

7179 "Department" means the Department of Criminal Justice Services.

7180 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
7181 means. The term shall not include access to the information by officers or employees of a criminal justice
7182 agency maintaining the information who have both a need and right to know the information.

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7184 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
7185 thereof, or any full-time or part-time employee of a private police department, and who is responsible for

7186 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
7187 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
7188 Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of
7189 § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time
7190 sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who
7191 is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the
7192 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
7193 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-
7194 217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police
7195 officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the
7196 investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
7197 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with
7198 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
7199 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
7200 police officer employed by a private police department. Part-time employees are those compensated
7201 officers who are not full-time employees as defined by the employing police department, sheriff's office,
7202 or private police department.

7203 "Private police department" means any police department, other than a department that employs
7204 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
7205 authorized by statute or an act of assembly to establish a private police department or such entity's
7206 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
7207 to operate a private police department or represent that it is a private police department unless such entity
7208 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
7209 that has been authorized pursuant to this section, provided it complies with the requirements set forth
7210 herein. The authority of a private police department shall be limited to real property owned, leased, or
7211 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
7212 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police

7213 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
7214 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
7215 with the private police department that addresses the duties and responsibilities of the private police
7216 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
7217 departments and private police officers shall be subject to and comply with the Constitution of the United
7218 States; the Constitution of Virginia; the laws governing municipal police departments, including the
7219 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
7220 1722; and any regulations adopted by the Board that the Department designates as applicable to private
7221 police departments. Any person employed as a private police officer pursuant to this section shall meet all
7222 requirements, including the minimum compulsory training requirements, for law-enforcement officers
7223 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
7224 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
7225 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
7226 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
7227 locality. An authorized private police department may use the word "police" to describe its sworn officers
7228 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
7229 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not
7230 otherwise established by statute or an act of assembly and whose status as a private police department was
7231 recognized by the Department at that time is hereby validated and may continue to operate as a private
7232 police department as may such entity's successor in interest, provided it complies with the requirements
7233 set forth herein.

7234 "School resource officer" means a certified law-enforcement officer hired by the local law-
7235 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
7236 secondary schools.

7237 "School security officer" means an individual who is employed by the local school board or a
7238 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
7239 investigating violations of the policies of the school board or the private or religious school, and detaining

7240 students violating the law or the policies of the school board or the private or religious school on school
7241 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
7242 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

7243 "Sealing" means (i) restricting dissemination of criminal history record information contained in
7244 the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction,
7245 in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations
7246 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting
7247 dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is
7248 authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

7249 "Unapplied criminal history record information" means information pertaining to criminal
7250 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
7251 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
7252 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
7253 the content of the submitted information.

7254 **§ 9.1-400. Title of chapter; definitions.**

7255 A. This chapter shall be known and designated as the Line of Duty Act.

7256 B. As used in this chapter, unless the context requires a different meaning:

7257 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under
7258 the will of a deceased person if testate, or as his heirs at law if intestate.

7259 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line
7260 of duty as the direct or proximate result of the performance of his duty, including the presumptions under
7261 §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute,
7262 as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees
7263 designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations
7264 of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of
7265 criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the
7266 investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate

7267 allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional
7268 officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy
7269 sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of
7270 any fire company or department or emergency medical services agency that has been recognized by an
7271 ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an
7272 integral part of the official safety program of such county, city, or town, including a person with a
7273 recognized membership status with such fire company or department who is enrolled in a Fire Service
7274 Training course offered by the Virginia Department of Fire Programs or any fire company or department
7275 training required in pursuit of qualification to become a certified firefighter; a member of any fire company
7276 providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National
7277 Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is
7278 serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty
7279 under Title 32 of the United States Code; ~~any a~~ special agent of the Virginia Alcoholic Beverage Control
7280 Authority or the Virginia Cannabis Control Authority; ~~any a~~ regular or special conservation police officer
7281 who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant
7282 to the provisions of § 29.1-200; ~~any a~~ commissioned forest warden appointed under the provisions of §
7283 10.1-1135; ~~any a~~ member or employee of the Virginia Marine Resources Commission granted the power
7284 of arrest pursuant to § 28.2-900; ~~any a~~ Department of Emergency Management hazardous materials
7285 officer; any other employee of the Department of Emergency Management who is performing official
7286 duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-
7287 146.16, that has been or is later declared to exist under the authority of the Governor in accordance with
7288 § 44-146.28; ~~any an~~ employee of any county, city, or town performing official emergency management
7289 or emergency services duties in cooperation with the Department of Emergency Management, when those
7290 duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later
7291 declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency,
7292 as defined in § 44-146.16, declared by a local governing body; ~~any a~~ nonfirefighter regional hazardous
7293 materials emergency response team member; ~~any a~~ conservation officer of the Department of

7294 Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-time sworn member of
7295 the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

7296 "Disabled person" means any individual who has been determined to be mentally or physically
7297 incapacitated so as to prevent the further performance of his duties at the time of his disability where such
7298 incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or
7299 proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2,
7300 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position
7301 listed in the definition of deceased person in this section. "Disabled person" does not include any
7302 individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404.
7303 "Disabled person" includes any state employee included in the definition of a deceased person who was
7304 disabled on or after January 1, 1966.

7305 "Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the
7306 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled
7307 person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that
7308 occurred prior to the time of the employee's death or disability and that any such adopted child is (i)
7309 adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or
7310 disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability.
7311 Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ includes the natural or adopted
7312 child or children of a deceased person or disabled person born as the result of a pregnancy or adoption
7313 that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will
7314 continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible
7315 dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as
7316 determined by the Department of Human Resource Management.

7317 "Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the
7318 spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will
7319 continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the
7320 spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible

7321 based on the Virginia Administrative Code or administrative guidance as determined by the Department
7322 of Human Resource Management.

7323 "Employee" means any person who would be covered or whose spouse, dependents, or
7324 beneficiaries would be covered under the benefits of this chapter if the person became a disabled person
7325 or a deceased person.

7326 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a
7327 volunteer who is a member of any fire company or department or rescue squad described in the definition
7328 of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire
7329 company or department or rescue squad as an integral part of the official safety program of such locality.

7330 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to §
7331 9.1-400.1.

7332 "Line of duty" means any action the deceased or disabled person was obligated or authorized to
7333 perform by rule, regulation, condition of employment or service, or law.

7334 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to §
7335 9.1-401.

7336 "Nonparticipating employer" means any employer that is a political subdivision of the
7337 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not
7338 participate in the Fund.

7339 "Participating employer" means any employer that is a state agency or is a political subdivision of
7340 the Commonwealth that did not make an election to become a nonparticipating employer.

7341 "VRS" means the Virginia Retirement System.

7342 **§ 9.1-500. Definitions.**

7343 As used in this chapter, unless the context requires a different meaning:

7344 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia
7345 Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the
7346 Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Department
7347 of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the

7348 campus police department of any public institution of higher education of the Commonwealth employing
7349 the law-enforcement officer.

7350 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent
7351 ~~of the Department~~ of State Police, who, in his official capacity, is (i) authorized by law to make arrests
7352 and (ii) a nonprobationary officer of one of the following agencies:

7353 ~~a-1.~~ The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
7354 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic
7355 Beverage Control Authority, the Virginia Cannabis Control Authority, the Department of Motor Vehicles,
7356 or the Department of Conservation and Recreation;

7357 ~~b-2.~~ The police department, bureau or force of any political subdivision or the campus police
7358 department of any public institution of higher education of the Commonwealth where such department,
7359 bureau or force has three or more law-enforcement officers; or

7360 ~~e-3.~~ Any conservation police officer as defined in § 9.1-101.

7361 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ does not include the sheriff's
7362 department of any city or county.

7363 **§ 9.1-801. Public safety officer defined.**

7364 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
7365 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
7366 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail
7367 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
7368 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
7369 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of
7370 the official safety program of such county, city, or town; an arson investigator; a member of the Virginia
7371 National Guard or the Virginia Defense Force while such a member is serving in the Virginia National
7372 Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United
7373 States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia
7374 Cannabis Control Authority; ~~any~~ a police agent appointed under the provisions of § 56-353; ~~any~~ a regular

7375 or special conservation police officer who receives compensation from a county, city, or town or from the
7376 Commonwealth appointed pursuant to § 29.1-200; ~~any a~~ commissioned forest warden appointed pursuant
7377 to § 10.1-1135; ~~any a~~ member or employee of the Virginia Marine Resources Commission granted the
7378 power to arrest pursuant to § 28.2-900; ~~any a~~ Department of Emergency Management hazardous materials
7379 officer; ~~any a~~ nonfirefighter regional hazardous materials emergency response team member; ~~any an~~
7380 investigator who is a full-time sworn member of the security division of the Virginia Lottery; ~~any a~~ full-
7381 time sworn member of the enforcement division of the Department of Motor Vehicles meeting the
7382 Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; ~~any~~
7383 ~~a~~ campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
7384 Title 23.1; and ~~any a~~ conservation officer of the Department of Conservation and Recreation
7385 commissioned pursuant to § 10.1-115.

7386 **§ 9.1-1101. Powers and duties of the Department.**

7387 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
7388 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
7389 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,
7390 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
7391 the head of any private police department that has been designated as a criminal justice agency by the
7392 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal
7393 matter. The Department shall provide such services to any federal investigatory agency within available
7394 resources.

7395 B. The Department shall:

7396 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
7397 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
7398 Commonwealth as needed;

7399 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
7400 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

7401 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
 7402 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
 7403 breath; and

7404 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
 7405 in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-
 7406 3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall
 7407 consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall
 7408 include the total available THC derived from the sum of the THC and THC-A content.

7409 C. The Department shall have the power and duty to:

7410 1. Receive, administer, and expend all funds and other assistance available for carrying out the
 7411 purposes of this chapter;

7412 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
 7413 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
 7414 United States, units of general local government or combinations thereof in Virginia or other states, and
 7415 with agencies and departments of the Commonwealth; and

7416 3. Perform such other acts as may be necessary or convenient for the effective performance of its
 7417 duties.

7418 D. The Director may appoint and employ a deputy director and such other personnel as are needed
 7419 to carry out the duties and responsibilities conferred by this chapter.

7420 **§ 15.2-2820. Definitions.**

7421 As used in this chapter, unless the context requires a different meaning:

7422 "Bar or lounge area" means any establishment or portion of an establishment devoted to the sale
 7423 and service of alcoholic beverages for consumption on the premises and where the sale or service of food
 7424 or meals is incidental to the consumption of the alcoholic beverages.

7425 "Educational facility" means any building used for instruction of enrolled students, including but
 7426 not limited to any day-care center, nursery school, public or private school, institution of higher education,
 7427 medical school, law school, or career and technical education school.

7428 "Health care facility" means any institution, place, building, or agency required to be licensed
7429 under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding
7430 home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

7431 "Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or
7432 occupant of a building or portion thereof used exclusively for club purposes, including club or member
7433 sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent,
7434 or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established
7435 bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are
7436 conducted by a board of directors, executive committee, or similar body chosen by the members at an
7437 annual meeting.

7438 "Private function" means any gathering of persons for the purpose of deliberation, education,
7439 instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which
7440 membership or specific invitation is a prerequisite to entry.

7441 "Private work place" means any office or work area that is not open to the public in the normal
7442 course of business except by individual invitation.

7443 "Proprietor" means the owner or lessee of the public place, who ultimately controls the activities
7444 within the public place. The term "proprietor" includes corporations, associations, or partnerships as well
7445 as individuals.

7446 "Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass
7447 transportation of persons in intrastate travel for compensation, including but not limited to any airplane,
7448 train, bus, or boat that is not subject to federal smoking regulations.

7449 "Public place" means any enclosed, indoor area used by the general public, including but not
7450 limited to any building owned or leased by the Commonwealth or any agency thereof or any locality,
7451 public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other
7452 health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum,
7453 concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting
7454 room.

7455 "Recreational facility" means any enclosed, indoor area used by the general public and used as a
7456 stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

7457 "Restaurant" means any place where food is prepared for service to the public on or off the
7458 premises, or any place where food is served. Examples of such places include but are not limited to
7459 lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining
7460 accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining
7461 accommodations of public and private schools and colleges, and kitchen areas of local correctional
7462 facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where
7463 packaged or canned foods are manufactured and then distributed to grocery stores or other similar food
7464 retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii)
7465 mobile points of service where such service and consumption occur in a private residence or in any
7466 location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such
7467 restaurant.

7468 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any
7469 kind, including marijuana, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling
7470 of smoke from a pipe, cigar, or cigarette of any kind, including marijuana.

7471 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or
7472 designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture,
7473 or other similar performance.

7474 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
7475 **finest; prepayment of local ordinances.**

7476 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
7477 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
7478 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
7479 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
7480 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
7481 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without

7482 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
7483 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
7484 as authorized in § 46.2-878.3.

7485 Such infractions shall not include:

7486 1. Indictable offenses;

7487 2. [Repealed.]

7488 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
7489 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
7490 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
7491 or in his custody or control;

7492 4. Reckless driving;

7493 5. Leaving the scene of an accident;

7494 6. Driving while under suspension or revocation of driving privileges;

7495 7. Driving without being licensed to drive.

7496 8. [Repealed.]

7497 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
7498 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
7499 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
7500 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
7501 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
7502 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

7503 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
7504 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
7505 be imposed, designating each infraction specifically. The schedule, which may from time to time be
7506 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
7507 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
7508 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall

7509 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
7510 with the provisions of this Code or any rules or regulations promulgated thereunder.

7511 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
7512 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
7513 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
7514 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
7515 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
7516 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
7517 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
7518 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
7519 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
7520 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
7521 provisions of this Code or any rules or regulations promulgated thereunder.

7522 **§ 16.1-260. Intake; petition; investigation.**

7523 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
7524 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
7525 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
7526 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
7527 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
7528 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
7529 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
7530 and file petitions and motions relating to the establishment, modification, or enforcement of support on
7531 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
7532 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
7533 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
7534 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
7535 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf

7536 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
7537 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
7538 shall be referred initially to the local department of social services in accordance with the provisions of
7539 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
7540 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
7541 inquire whether the petitioner is receiving child support services or public assistance. No individual who
7542 is receiving support services or public assistance shall be denied the right to file a petition or motion to
7543 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
7544 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
7545 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.
7546 If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner
7547 information on the possible availability of medical assistance through the Family Access to Medical
7548 Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of
7549 Medical Assistance Services.

7550 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
7551 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
7552 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
7553 communications and proceedings shall be conducted in the same manner as if the appearance were in
7554 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
7555 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
7556 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
7557 signatures. Any two-way electronic video and audio communication system used for an appearance shall
7558 meet the standards as set forth in subsection B of § 19.2-3.1.

7559 When the court service unit of any court receives a complaint alleging facts which may be
7560 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
7561 may proceed informally to make such adjustment as is practicable without the filing of a petition or may

7562 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
7563 probable cause for the issuance of the petition.

7564 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
7565 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
7566 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
7567 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
7568 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
7569 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
7570 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
7571 that would be a felony if committed by an adult.

7572 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
7573 and the attendance officer has provided documentation to the intake officer that the relevant school
7574 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
7575 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
7576 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated
7577 in need of supervision on more than two occasions for failure to comply with compulsory school
7578 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
7579 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
7580 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
7581 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
7582 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
7583 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
7584 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
7585 appropriate public agency for the purpose of developing a truancy plan using an interagency
7586 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
7587 from the appropriate department of social services, community services board, local school division, court
7588 service unit, and other appropriate and available public and private agencies and may be the family

7589 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
7590 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
7591 shall file the petition.

7592 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
7593 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
7594 plan for the juvenile, which may include restitution, the performance of community service, or on a
7595 complaint alleging that a child has committed a delinquent act other than an act that would be a felony or
7596 a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
7597 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
7598 community resources and the circumstances which resulted in the complaint, (B) create an official record
7599 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the
7600 juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant
7601 that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon
7602 facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case
7603 of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any
7604 subsequent report from the youth justice diversion program alleging that the juvenile failed to comply
7605 with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in
7606 the filing of a petition with the court.

7607 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
7608 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
7609 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
7610 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
7611 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
7612 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,
7613 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
7614 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
7615 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in

7616 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
7617 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
7618 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
7619 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
7620 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
7621 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
7622 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
7623 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
7624 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

7625 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
7626 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
7627 need of supervision have utilized or attempted to utilize treatment and services available in the community
7628 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
7629 officer determines that the parties have not attempted to utilize available treatment or services or have not
7630 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the
7631 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
7632 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
7633 the parties have made a reasonable effort to utilize available community treatment or services may he
7634 permit the petition to be filed.

7635 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
7636 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
7637 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of
7638 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the
7639 magistrate shall be filed within 10 days of the issuance of the written notification. The written notification
7640 shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice
7641 that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide
7642 the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate

7643 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
7644 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
7645 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
7646 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
7647 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
7648 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
7649 a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition
7650 relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as
7651 a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is
7652 appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a
7653 magistrate for a warrant.

7654 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
7655 the intake officer shall accept and file a petition founded upon the warrant.

7656 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
7657 which alleges facts of an offense which would be a felony if committed by an adult.

7658 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
7659 report with the division superintendent of the school division in which any student who is the subject of a
7660 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
7661 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
7662 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
7663 of the filing of the petition and the nature of the offense, if the violation involves:

7664 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
7665 299 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;

7666 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

7667 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
7668 Title 18.2;

7669 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

7670 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
7671 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7672 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11~~ (~~§ 18.2-247 4.1-~~
7673 1100 et seq.) ~~of Chapter 7 of Title 18.2~~ 4.1;

7674 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

7675 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

7676 9. Robbery pursuant to § 18.2-58;

7677 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

7678 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

7679 12. An act of violence by a mob pursuant to § 18.2-42.1;

7680 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

7681 14. A threat pursuant to § 18.2-60.

7682 The failure to provide information regarding the school in which the student who is the subject of
7683 the petition may be enrolled shall not be grounds for refusing to file a petition.

7684 The information provided to a division superintendent pursuant to this section may be disclosed
7685 only as provided in § 16.1-305.2.

7686 H. The filing of a petition shall not be necessary:

7687 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
7688 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
7689 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.

7690 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
7691 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
7692 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
7693 accident may be located, proceed on a summons in lieu of filing a petition.

7694 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
7695 H of § 16.1-241.

7696 3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738 or the
7697 commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a
7698 parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a
7699 parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring
7700 the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be
7701 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
7702 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
7703 or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through
7704 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate
7705 shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal
7706 guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation
7707 is to be tried. When a violation of § 4.1-305 or 4.1-1104 is charged by summons, the juvenile shall be
7708 entitled to have the charge referred to intake for consideration of informal proceedings pursuant to
7709 subsection B, provided that such right is exercised by written notification to the clerk not later than 10
7710 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1104 is served, the
7711 officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake
7712 on a form approved by the Supreme Court and make return of such service to the court. If the officer fails
7713 to make such service or return, the court shall dismiss the summons without prejudice.

7714 4. In the case of offenses, other than marijuana-related offenses, which, if committed by an adult,
7715 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake
7716 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation
7717 in the same manner as provided by law for adults provided that notice of the summons to appear is mailed
7718 by the investigating officer within five days of the issuance of the summons to a parent or legal guardian
7719 of the juvenile.

7720 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
7721 of the jurisdiction granted it in § 16.1-241.

7722 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
7723 **impact statement.**

7724 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
7725 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
7726 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
7727 violations, the court before final disposition thereof may require an investigation, which (i) shall include
7728 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include
7729 a social history of the physical, mental, and social conditions, including an assessment of any affiliation
7730 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
7731 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent
7732 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by
7733 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
7734 Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if
7735 committed by an adult, or (c) a violation of § 4.1-1104, the court shall order the juvenile to undergo a drug
7736 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,
7737 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500
7738 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an
7739 individual employed by or currently under contract to such agencies and who is specifically trained to
7740 conduct such assessments under the supervision of such counselor.

7741 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
7742 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
7743 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
7744 physical, psychological, or economic injury as a result of the violation of law.

7745 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
7746 **offenses; truancy.**

7747 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
7748 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar

7749 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
7750 a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250;
7751 (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or
7752 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol
7753 in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public
7754 school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar
7755 ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a
7756 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to
7757 any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's
7758 license. In addition to any other penalty authorized by this section, if the offense involves a violation
7759 designated under clause (i) and the child was transporting a person 17 years of age or younger, the court
7760 shall impose the additional fine and order community service as provided in § 18.2-270. If the offense
7761 involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be
7762 for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such
7763 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a
7764 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or
7765 (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by
7766 a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's
7767 license shall be delayed for a period of six months following the date he reaches the age of 16 and three
7768 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
7769 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
7770 disposition of the delinquency charge until such time as the court disposes of the case pursuant to
7771 subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose
7772 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter
7773 or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving
7774 privileges shall be for a period of not less than 30 days, except when the offense involves possession of a
7775 concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding

7776 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
7777 which case the denial of driving privileges shall be for a period of two years unless the offense is
7778 committed by a child under the age of 16 years and three months, in which event the child's ability to
7779 apply for a driver's license shall be delayed for a period of two years following the date he reaches the age
7780 of 16 and three months.

7781 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
7782 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
7783 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
7784 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
7785 of not less than 30 days following the date he reaches the age of 16 and three months.

7786 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
7787 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
7788 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
7789 and three months, as may be appropriate.

7790 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
7791 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or
7792 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
7793 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
7794 offense.

7795 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
7796 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
7797 in the physical custody of the court during any period of license denial.

7798 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
7799 which shall preserve a record thereof. The report and the record shall include a statement as to whether
7800 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
7801 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2,
7802 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and

7803 courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless
7804 the proceeding results in an adjudication of guilt pursuant to subsection F.

7805 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
7806 driver's license until such time as is stipulated in the court order or until notification by the court of
7807 withdrawal of the order of denial under subsection E.

7808 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
7809 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
7810 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
7811 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
7812 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
7813 such terms and conditions as the court may set forth.

7814 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
7815 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
7816 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
7817 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
7818 shall be issued for travel to and from home and school when school-provided transportation is available
7819 and no restricted license shall be issued if the finding as to such child involves a violation designated
7820 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
7821 designated in subsection A, a second finding by the court of failure to comply with school attendance and
7822 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
7823 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
7824 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
7825 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
7826 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
7827 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
7828 is guilty of a violation of § 46.2-301.

7829 E. Upon petition made at least 90 days after issuance of the order, the court may review and
7830 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
7831 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
7832 and withdrawn until one year after its issuance.

7833 F. If the finding as to such child involves a first violation designated under clause (vii) of
7834 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
7835 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
7836 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
7837 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
7838 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
7839 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
7840 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
7841 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
7842 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
7843 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
7844 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

7845 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

7846 A. A clerk of the circuit court who provides secure remote access to land records pursuant to §
7847 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and
7848 deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as
7849 defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined
7850 in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an
7851 amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to
7852 cover operational expenses as defined in § 17.1-295.

7853 The Office of the Attorney General, the Division of Debt Collection, the Department of
7854 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department
7855 of General Services, the Department of Conservation and Recreation, the Department of Forestry, the

7856 Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Department
7857 of Rail and Public Transportation, and the State Corporation Commission shall be exempt from paying
7858 any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote
7859 access to land records to subscribers, such contract shall contain a provision exempting the Office of the
7860 Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia
7861 Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the
7862 Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage
7863 Control Authority, the Virginia Cannabis Control Authority, the Department of Rail and Public
7864 Transportation, and the State Corporation Commission from paying any access or subscription fee.

7865 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes
7866 to have remote access, in accordance with the security standards established by the Virginia Information
7867 Technologies Agency. Any such agreement between a state agency or employee thereof acting in the
7868 employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote
7869 access to land records to subscribers, or such an agreement between a state agency or employee thereof
7870 acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any
7871 provision requiring the state agency or employee thereof acting in the employee's official capacity to
7872 indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside
7873 vendor shall provide that the state agency is required to monitor its employees' activity under such
7874 agreement to ensure compliance with its terms.

7875 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee
7876 that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image
7877 downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

7878 D. Nothing herein shall be construed to require the use by the general public of the secure remote
7879 access to land records made available by the clerk, and such records may continue to be accessed in person
7880 in the clerk's office.

7881 **§ 18.2-46.1. Definitions.**

7882 As used in this article unless the context requires otherwise or it is otherwise provided:

7883 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

7884 "Criminal street gang" means any ongoing organization, association, or group of three or more
7885 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
7886 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
7887 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
7888 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
7889 which is an act of violence, provided such acts were not part of a common act or transaction.

7890 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-
7891 46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55,
7892 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-
7893 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,
7894 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01,
7895 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-
7896 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
7897 conspiracy to commit a felony violation of § 4.1-1101, or 18.2-248, ~~or 18.2-248.1~~; (v) any violation of a
7898 local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws
7899 of another state or territory of the United States, the District of Columbia, or the United States.

7900 **§ 18.2-57. Assault and battery; penalty.**

7901 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1
7902 misdemeanor, and if the person intentionally selects the person against whom a simple assault is
7903 committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation,
7904 color, or national origin, the penalty upon conviction shall include a term of confinement of at least six
7905 months.

7906 B. However, if a person intentionally selects the person against whom an assault and battery
7907 resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender
7908 identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the
7909 penalty upon conviction shall include a term of confinement of at least six months.

7910 C. ~~In addition, if~~ If any person commits an assault or an assault and battery against another
7911 knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement
7912 officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved
7913 in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an
7914 employee of a local or regional correctional facility directly involved in the care, treatment, or supervision
7915 of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision
7916 of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee
7917 or other individual who provides control, care, or treatment of sexually violent predators committed to the
7918 custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in
7919 § 65.2-102, or a volunteer firefighter or ~~any~~ an emergency medical services personnel member who is
7920 employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide
7921 volunteer fire department or volunteer emergency medical services agency, regardless of whether a
7922 resolution has been adopted by the governing body of a political subdivision recognizing such firefighters
7923 or emergency medical services personnel as employees, engaged in the performance of his public duties
7924 anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the
7925 sentence of such person shall include a mandatory minimum term of confinement of six months.

7926 Nothing in this subsection shall be construed to affect the right of any person charged with a
7927 violation of this section from asserting and presenting evidence in support of any defenses to the charge
7928 that may be available under common law.

7929 D. ~~In addition, if any~~ Any person who commits a battery against another knowing or having reason
7930 to know that such other person is a full-time or part-time employee of any public or private elementary or
7931 secondary school ~~and~~ who is engaged in the performance of his duties as such, ~~he~~ is guilty of a Class 1
7932 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail,
7933 two days of which shall be a mandatory minimum term of confinement. However, if the offense is
7934 committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1,
7935 the person shall serve a mandatory minimum sentence of confinement of six months.

7936 E. ~~In addition, any~~ Any person who commits a battery against another knowing or having reason
7937 to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the
7938 performance of his duties in a hospital or in an emergency room on the premises of any clinic or other
7939 facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such
7940 person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall
7941 be a mandatory minimum term of confinement.

7942 F. As used in this section:

7943 "Disability" means a physical or mental impairment that substantially limits one or more of a
7944 person's major life activities.

7945 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.)
7946 of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

7947 "Judge" means any justice or judge of a court of record of the Commonwealth, including a judge
7948 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore
7949 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'
7950 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge
7951 of such district court.

7952 "Law-enforcement officer" means ~~any~~ a full-time or part-time employee of a police department or
7953 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof
7954 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic, or
7955 highway laws of the Commonwealth, ~~any~~ a conservation officer of the Department of Conservation and
7956 Recreation commissioned pursuant to § 10.1-115, ~~any~~ a special agent of the Virginia Alcoholic Beverage
7957 Control Authority or the Virginia Cannabis Control Authority, a conservation police ~~officers~~ officer
7958 appointed pursuant to § 29.1-200, a full-time sworn ~~members~~ member of the enforcement division of the
7959 Department of Motor Vehicles appointed pursuant to § 46.2-217, ~~and any~~ an employee with internal
7960 investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-
7961 10, ~~and such officer also includes~~ a jail ~~officers~~ officer in a local ~~and or~~ or regional correctional ~~facilities~~
7962 facility, ~~all~~ a deputy ~~sheriffs~~ sheriff, whether assigned to law-enforcement duties, court services, or local

7963 jail responsibilities, an auxiliary police ~~officers~~ officer appointed or provided for pursuant to §§ 15.2-1731
7964 and 15.2-1733, an auxiliary deputy ~~sheriffs~~ sheriff appointed pursuant to § 15.2-1603, a police ~~officers~~
7965 officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and a fire ~~marshals~~
7966 marshal appointed pursuant to § 27-30 when such fire ~~marshals have~~ marshal has police powers as set out
7967 in §§ 27-34.2 and 27-34.2:1.

7968 "School security officer" means the same as that term is defined in § 9.1-101.

7969 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any
7970 school security officer or full-time or part-time employee of any public or private elementary or secondary
7971 school while acting in the course and scope of his official capacity, any of the following: (i) incidental,
7972 minor, or reasonable physical contact or other actions designed to maintain order and control; (ii)
7973 reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance
7974 that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to
7975 prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-
7976 defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or
7977 other dangerous objects or controlled substances or associated paraphernalia that are upon the person of
7978 the student or within his control.

7979 In determining whether a person was acting within the exceptions provided in this subsection, due
7980 deference shall be given to reasonable judgments that were made by a school security officer or full-time
7981 or part-time employee of any public or private elementary or secondary school at the time of the event.

7982 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"
7983 "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

7984 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used
7985 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
7986 3400 et seq.).

7987 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
7988 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a
7989 controlled substance subject to abuse; and:

7990 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging,
7991 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
7992 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
7993 into commerce prior to the initial introduction into commerce of the controlled substance which it is
7994 alleged to imitate; or

7995 2. Which by express or implied representations purports to act like a controlled substance as a
7996 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
7997 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
7998 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

7999 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
8000 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
8001 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
8002 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
8003 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
8004 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
8005 and how it is sold to the public.

8006 D. ~~The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
8007 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
8008 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
8009 ~~Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake~~
8010 ~~made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of~~
8011 ~~plants of the genus Cannabis. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112,~~
8012 ~~that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) industrial~~
8013 ~~hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued~~
8014 ~~by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; or (iii) a hemp product, as defined~~
8015 ~~in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is~~

8016 ~~derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance~~
8017 ~~with state or federal law.~~

8018 E. The term "counterfeit controlled substance" means a controlled substance that, without
8019 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the
8020 trademark, trade name, or other identifying mark, imprint₂ or device₂ or any likeness thereof, of a drug
8021 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or
8022 distributor who did in fact so manufacture, process, pack₂ or distribute such drug.

8023 ~~F. The Department of Forensic Science shall determine the proper methods for detecting the~~
8024 ~~concentration of delta-9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§~~
8025 ~~54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other~~
8026 ~~equivalent method and shall consider the potential conversion of delta-9 tetrahydrocannabinol acid (THC-~~
8027 ~~A) into THC. The test result shall include the total available THC derived from the sum of the THC and~~
8028 ~~THC-A content.~~

8029 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**
8030 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**
8031 **prohibited; penalties.**

8032 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for
8033 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give₂ or
8034 distribute a controlled substance or an imitation controlled substance.

8035 B. In determining whether any person intends to manufacture, sell, give₂ or distribute an imitation
8036 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
8037 distribution or attempted distribution of such pill, capsule, tablet₂ or substance in any other form
8038 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,
8039 whether the amount of such consideration was substantially greater than the reasonable value of such pill,
8040 capsule, tablet₂ or substance in any other form whatsoever, considering the actual chemical composition
8041 of such pill, capsule, tablet₂ or substance in any other form whatsoever and, where applicable, the price at
8042 which over-the-counter substances of like chemical composition sell.

8043 C. Except as provided in subsection C1, any person who violates this section with respect to a
8044 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
8045 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
8046 violation, and it is alleged in the warrant, indictment, or information that the person has been before
8047 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
8048 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
8049 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
8050 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
8051 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
8052 consecutively with any other sentence, and he shall be fined not more than \$500,000.

8053 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
8054 in the warrant, indictment, or information that he has been before convicted of two or more such offenses
8055 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
8056 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
8057 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not
8058 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
8059 consecutively with any other sentence, and he shall be fined not more than \$500,000.

8060 Any person who manufactures, sells, gives, distributes, or possesses with the intent to manufacture,
8061 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million
8062 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
8063 imprisonment to be served consecutively with any other sentence:

- 8064 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 8065 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 8066 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
8067 derivatives of ecgonine or their salts have been removed;
 - 8068 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 8069 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

8070 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
8071 referred to in subdivisions ~~2a through 2e~~ a, b, and c;

8072 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
8073 that contain cocaine base; or

8074 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
8075 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
8076 salts of its isomers.

8077 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
8078 shall not be applicable if the court finds that:

8079 a. The person does not have a prior conviction for an offense listed in subsection C of § § 17.1-
8080 805;

8081 b. The person did not use violence or credible threats of violence or possess a firearm or other
8082 dangerous weapon in connection with the offense or induce another participant in the offense to do so;

8083 c. The offense did not result in death or serious bodily injury to any person;

8084 d. The person was not an organizer, leader, manager, or supervisor of others in the offense; and
8085 was not engaged in a continuing criminal enterprise as defined in subsection I; and

8086 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
8087 Commonwealth all information and evidence the person has concerning the offense or offenses that were
8088 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
8089 relevant or useful other information to provide or that the Commonwealth already is aware of the
8090 information shall not preclude a determination by the court that the defendant has complied with this
8091 requirement.

8092 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
8093 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
8094 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
8095 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
8096 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing

8097 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years; and be fined
8098 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
8099 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
8100 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
8101 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
8102 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
8103 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
8104 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
8105 \$500,000.

8106 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
8107 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
8108 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
8109 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
8110 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
8111 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
8112 property owned in whole or in part by the person convicted, the court shall order the person to pay to the
8113 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
8114 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
8115 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that
8116 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
8117 to the guidelines established pursuant to § 32.1-11.7.

8118 D. If such person proves that he gave, distributed, or possessed with intent to give or distribute a
8119 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
8120 not an inmate in a community correctional facility, local correctional facility, or state correctional facility
8121 as defined in § 53.1-1 or in the custody of an employee thereof; and not with intent to profit thereby from
8122 any consideration received or expected nor to induce the recipient or intended recipient of the controlled

8123 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
8124 of a Class 5 felony.

8125 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
8126 prescription of a person authorized under this article to issue the same, which prescription has not been
8127 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
8128 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
8129 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
8130 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
8131 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
8132 misdemeanor.

8133 E1. Any person who violates this section with respect to a controlled substance classified in
8134 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
8135 248.5, ~~shall be~~ is guilty of a Class 5 felony.

8136 E2. Any person who violates this section with respect to a controlled substance classified in
8137 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

8138 E3. Any person who proves that he gave, distributed, or possessed with the intent to give or
8139 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified
8140 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
8141 who is not an inmate in a community correctional facility, local correctional facility, or state correctional
8142 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
8143 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
8144 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
8145 guilty of a Class 1 misdemeanor.

8146 F. Any person who violates this section with respect to a controlled substance classified in
8147 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance
8148 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

8149 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~
8150 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6
8151 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection
8152 that the defendant believed the imitation controlled substance to actually be a controlled substance.

8153 H. Any person who manufactures, sells, gives, distributes, or possesses with the intent to
8154 manufacture, sell, give, or distribute the following:

- 8155 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 8156 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
- 8157 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
8158 derivatives of ecgonine or their salts have been removed;
- 8159 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 8160 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 8161 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
8162 substances referred to in subdivisions a ~~through~~, b, and c;
- 8163 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains
8164 cocaine base; or
- 8165 ~~4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~
- 8166 ~~or~~
- 8167 ~~5.~~ 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams
8168 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
8169 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and
8170 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such
8171 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a
8172 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or
8173 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense
8174 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious
8175 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others

8176 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this
8177 section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the
8178 Commonwealth all information and evidence the person has concerning the offense or offenses that were
8179 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
8180 relevant or useful other information to provide or that the Commonwealth already is aware of the
8181 information shall not preclude a determination by the court that the defendant has complied with this
8182 requirement.

8183 H1. Any person who was the principal or one of several principal administrators, organizers, or
8184 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at
8185 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
8186 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the
8187 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
8188 enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or
8189 distribute the following during any 12-month period of its existence:

8190 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
8191 detectable amount of heroin;

8192 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
8193 detectable amount of:

8194 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
8195 derivatives of ecgonine or their salts have been removed;

8196 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

8197 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

8198 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
8199 substances referred to in subdivisions a ~~through~~ b, and c;

8200 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
8201 subdivision 2 ~~which~~ that contains cocaine base; or

8202 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
8203 ~~detectable amount of marijuana; or~~

8204 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
8205 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
8206 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

8207 A conviction under this section shall be punishable by a fine of not more than \$1 million and
8208 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

8209 H2. Any person who was the principal or one of several principal administrators, organizers, or
8210 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
8211 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
8212 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
8213 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute, or possess
8214 with the intent to manufacture, sell, give, or distribute the following during any 12-month period of its
8215 existence:

8216 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

8217 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

8218 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
8219 derivatives of ecgonine or their salts have been removed;

8220 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

8221 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

8222 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
8223 substances referred to in subdivisions a ~~through~~, b, and c;

8224 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains
8225 cocaine base; or

8226 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~
8227 ~~or~~

8228 ~~5-~~ At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
8229 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
8230 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1
8231 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
8232 punishment shall be made to run consecutively with any other sentence. However, the court may impose
8233 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
8234 with law-enforcement authorities.

8235 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
8236 violates any provision of this section, the punishment for which is a felony, and either (ii) such violation
8237 is a part of a continuing series of violations of this section which are undertaken by such person in concert
8238 with five or more other persons with respect to whom such person occupies a position of organizer, a
8239 supervisory position, or any other position of management, and from which such person obtains
8240 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or
8241 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in
8242 association with any criminal street gang as defined in § 18.2-46.1.

8243 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses
8244 any two or more different substances listed below with the intent to manufacture methamphetamine,
8245 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
8246 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
8247 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
8248 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
8249 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
8250 or 2-propanone.

8251 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
8252 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
8253 salts of optical isomers.

8254 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

8255 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person
8256 to transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
8257 cocaine, coca leaves, or any salt, compound, derivative, or preparation thereof as described in Schedule II
8258 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
8259 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
8260 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
8261 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
8262 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a
8263 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
8264 other sentence.

8265 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
8266 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
8267 **costs and fees; violations; discharge.**

8268 Whenever any person who has not previously been convicted of any criminal offense under this
8269 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
8270 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
8271 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
8272 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
8273 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
8274 consent of the accused, may defer further proceedings and place him on probation upon terms and
8275 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
8276 of court has been provided with the fingerprint identification information or fingerprints of the person,
8277 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
8278 photograph of the person be taken by a law-enforcement officer.

8279 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
8280 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
8281 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused

8282 based upon consideration of the substance abuse assessment. The program or services may be located in
8283 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
8284 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
8285 Developmental Services, by a similar program which is made available through the Department of
8286 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
8287 (iii) an ASAP program certified by the Commission on VASAP.

8288 The court shall require the person entering such program under the provisions of this section to
8289 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
8290 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
8291 indigent.

8292 As a condition of probation, the court shall require the accused (a) to successfully complete
8293 treatment or education program or services, (b) to remain drug and alcohol free during the period of
8294 probation and submit to such tests during that period as may be necessary and appropriate to determine if
8295 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
8296 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
8297 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
8298 probation agency or personnel of any program or agency approved by the supervising probation agency.

8299 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
8300 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
8301 court has been provided with the fingerprint identification information or fingerprints of such person, the
8302 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
8303 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
8304 section in subsequent proceedings.

8305 Notwithstanding any other provision of this section, whenever a court places an individual on
8306 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
8307 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
8308 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

8309 § 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

8310 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
8311 consumption or use of a controlled substance, alcohol, or any combination of such substances.

8312 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
8313 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
8314 marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant
8315 to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia
8316 pursuant to § 54.1-3466 if:

8317 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
8318 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
8319 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
8320 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
8321 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
8322 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,
8323 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the
8324 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing
8325 an overdose while another individual seeks or obtains emergency medical attention in accordance with
8326 this subdivision;

8327 2. Such individual remains at the scene of the overdose or at any alternative location to which he
8328 or the person requiring emergency medical attention has been transported until a law-enforcement officer
8329 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose
8330 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
8331 forth herein;

8332 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
8333 the overdose; and

8334 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
8335 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or
8336 assistance.

8337 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
8338 medical attention for himself or another individual, to a person experiencing an overdose when another
8339 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency
8340 care or assistance to an individual experiencing an overdose while another person seeks or obtains
8341 emergency medical attention during the execution of a search warrant or during the conduct of a lawful
8342 search or a lawful arrest.

8343 D. This section does not establish protection from arrest or prosecution for any individual or
8344 offense other than those listed in subsection B.

8345 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
8346 determined that the person arrested was immune from prosecution under this section.

8347 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

8348 No school nurse employed by a local school board, person employed by a local health department
8349 who is assigned to the public school pursuant to an agreement between the local health department and
8350 the school board, or other person employed by or contracted with a local school board to deliver health-
8351 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,~~18.2-~~
8352 ~~248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
8353 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student
8354 who has been issued a valid written certification for the use of cannabis oil in accordance with subsection
8355 B of § 54.1-3408.3.

8356 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
8357 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

8358 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
8359 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
8360 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 possession

8361 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a
8362 patient or resident who has been issued a valid written certification for the use of cannabis oil in
8363 accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

8364 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
8365 **Department of Agriculture and Consumer Services employees.**

8366 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
8367 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,
8368 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of
8369 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
8370 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial
8371 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations
8372 promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

8373 B. No employee of the Department of Agriculture and Consumer Services shall be prosecuted
8374 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
8375 18.2-250 for the possession or distribution of industrial hemp when possession of industrial hemp is
8376 necessary in the performance of his duties.

8377 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
8378 **testing, and treatment or education.**

8379 The trial judge or court trying the case of any person found guilty of a criminal violation of any
8380 law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious
8381 chemical substances and like substances shall condition any suspended sentence by first requiring such
8382 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
8383 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing
8384 shall be conducted by the supervising probation agency or by personnel of any program or agency
8385 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
8386 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
8387 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance

8388 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
8389 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
8390 Department of Behavioral Health and Developmental Services, by a similar program or services available
8391 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
8392 imposes a sentence of 12 months or less, by a similar program or services available through a local or
8393 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
8394 ASAP program certified by the Commission on VASAP.

8395 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

8396 A. Whenever any person who has not previously been convicted of any criminal offense under this
8397 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana,~~
8398 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
8399 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
8400 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana,~~ noxious chemical
8401 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
8402 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
8403 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
8404 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
8405 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
8406 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
8407 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
8408 Health and Developmental Services or by a similar program or services available through the Department
8409 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
8410 12 months or less, by a similar program or services available through a local or regional jail, a local
8411 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
8412 certified by the Commission on VASAP.

8413 B. The court trying the case of any person alleged to have committed any criminal offense
8414 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in

8415 which the commission of the offense was motivated by or closely related to the use of drugs and
8416 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
8417 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
8418 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
8419 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
8420 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
8421 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
8422 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
8423 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
8424 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
8425 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
8426 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
8427 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
8428 to the effect that the confined person has successfully responded to treatment, the court may release such
8429 confined person prior to the termination of the period of time for which such person was confined and
8430 may suspend the remainder of the term upon such conditions as the court may prescribe.

8431 C. The court trying a case in which commission of the criminal offense was related to the
8432 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
8433 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
8434 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
8435 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
8436 Developmental Services, if space is available in such facility, for a period of time not in excess of the
8437 maximum term of imprisonment specified as the penalty for conviction. Confinement under such
8438 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
8439 committed may be convicted of escape if he leaves the place of commitment without authority. The court
8440 may revoke such commitment at any time and transfer the person to an appropriate state or local
8441 correctional facility. Upon presentation of a certified statement from the director of the treatment facility

8442 to the effect that the confined person has successfully responded to treatment, the court may release such
8443 confined person prior to the termination of the period of time for which such person was confined and
8444 may suspend the remainder of the term upon such conditions as the court may prescribe.

8445 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

8446 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1~~, it
8447 shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
8448 distribute any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~ to any person under 18 years of age
8449 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
8450 distribution of any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~. Any person violating this
8451 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10
8452 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
8453 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
8454 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
8455 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

8456 B. It shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally
8457 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
8458 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation
8459 controlled substance. Any person violating this provision shall be is guilty of a Class 6 felony.

8460 **§ 18.2-255.1. Distribution, sale, or display to a minor of printed material advertising**
8461 **instruments for use in administering a controlled substance; penalty.**

8462 It shall be is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
8463 to a minor any book, pamphlet, periodical₂ or other printed matter ~~which~~ that he knows advertises for sale
8464 any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
8465 administering, preparing₂ or growing ~~marijuana~~ or a controlled substance.

8466 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
8467 **penalty.**

8468 A. It ~~shall be~~ is unlawful for any person to manufacture, sell, or distribute or possess with intent to
8469 sell, give, or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

8470 1. Upon the property, including buildings and grounds, of any public or private elementary or
8471 secondary school, any institution of higher education, or any clearly marked licensed child day center as
8472 defined in § 22.1-289.02;

8473 2. Upon public property or any property open to public use within 1,000 feet of the property
8474 described in subdivision 1;

8475 3. On any school bus as defined in § 46.2-100;

8476 4. Upon a designated school bus stop, or upon either public property or any property open to public
8477 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting
8478 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

8479 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
8480 recreation or community center facility or any public library; or

8481 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
8482 property open to public use within 1,000 feet of such ~~an institution~~ facility.

8483 It is a violation of the provisions of this section if the person possessed the controlled substance,
8484 or imitation controlled substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6,
8485 regardless of where the person intended to sell, give, or distribute the controlled substance, or imitation
8486 controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the authorized distribution of
8487 controlled substances.

8488 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
8489 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
8490 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
8491 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§
8492 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum
8493 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
8494 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another

8495 individual and not with intent to profit thereby from any consideration received or expected nor to induce
8496 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
8497 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

8498 C. If a person commits an act violating the provisions of this section, and the same act also violates
8499 another provision of law that provides for penalties greater than those provided for by this section, then
8500 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
8501 law or the imposition of any penalties provided for thereby.

8502 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

8503 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
8504 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
8505 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
8506 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
8507 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
8508 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
8509 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
8510 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
8511 who knowingly permits, establishes, keeps, or maintains such a common nuisance is guilty of a Class 1
8512 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

8513 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

8514 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
8515 warehouse, dwelling house, apartment or building, or structure of any kind ~~which that~~ is (i) substantially
8516 altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful
8517 entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing
8518 or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be
8519 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
8520 of a Class 5 felony.

8521 § 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by
8522 fraud, deceit, or forgery.

8523 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or
8524 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
8525 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
8526 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
8527 giving of a false address.

8528 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in ~~or~~, omit any
8529 information from, or willfully make a false statement in, any prescription, order, report, record, or other
8530 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

8531 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of
8532 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or issued
8533 to another person.

8534 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
8535 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
8536 physician, dentist, veterinarian, or other authorized person.

8537 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false
8538 or forged written order.

8539 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
8540 containing any controlled substance.

8541 G. This section shall not apply to officers and employees of the United States, of this
8542 Commonwealth, or of a political subdivision of this Commonwealth, acting in the course of their
8543 employment, who obtain such drugs for investigative, research, or analytical purposes, or to the agents or
8544 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
8545 investigative, research, or analytical purposes and who are acting in the course of their employment, ~~;~~
8546 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic

8547 Act² and provided further, that such pharmaceutical manufacturer, its agents² and duly authorized
8548 representatives file with the Board such information as the Board may deem appropriate.

8549 H. Except as otherwise provided in this subsection, any person who shall violate any provision
8550 herein ~~shall be~~ is guilty of a Class 6 felony.

8551 Whenever any person who has not previously been convicted of any offense under this article or
8552 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
8553 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
8554 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
8555 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
8556 finding of guilt, the court may place him on probation upon terms and conditions.

8557 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
8558 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
8559 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
8560 any other judicial circuit as the court may provide. The services shall be provided by a program certified
8561 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
8562 the person entering such program under the provisions of this section to pay all or part of the costs of the
8563 program, including the costs of the screening, evaluation, testing² and education, based upon the person's
8564 ability to pay unless the person is determined by the court to be indigent.

8565 As a condition of supervised probation, the court shall require the accused to remain drug free
8566 during the period of probation and submit to such tests during that period as may be necessary and
8567 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
8568 any screening, evaluation, and education program to which the person is referred or by the supervising
8569 agency.

8570 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
8571 report to the original arresting law-enforcement agency to submit to fingerprinting.

8572 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
8573 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
8574 shall find the defendant guilty of a Class 1 misdemeanor.

8575 **§ 18.2-265.1. Definition.**

8576 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
8577 of any kind which are either designed for use or which are intended by the person charged with violating
8578 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
8579 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
8580 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
8581 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

8582 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or
8583 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled
8584 substance can be derived;

8585 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
8586 producing, processing, or preparing ~~marijuana~~ or controlled substances;

8587 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
8588 or any species of plant ~~which~~ that is a controlled substance;

8589 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
8590 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
8591 determine whether a controlled substance contains fentanyl or a fentanyl analog;

8592 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
8593 controlled substances;

8594 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
8595 or designed for use in cutting controlled substances;

8596 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~
8597 ~~from, or in otherwise cleaning or refining, marijuana;~~

- 8598 ~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
8599 compounding controlled substances;
- 8600 ~~9-8.~~ Capsules, balloons, envelopes, and other containers intended for use or designed for use in
8601 packaging small quantities of ~~marijuana~~ or controlled substances;
- 8602 ~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing
8603 ~~marijuana~~ or controlled substances;
- 8604 ~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in
8605 parenterally injecting controlled substances into the human body;
- 8606 ~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
8607 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 8608 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
8609 screens, ~~hashish heads,~~ or punctured metal bowls;
- 8610 b. Water pipes;
- 8611 c. Carburetion tubes and devices;
- 8612 d. Smoking and carburetion masks;
- 8613 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette,~~ that
8614 has become too small or too short to be held in the hand;
- 8615 f. Miniature cocaine spoons, and cocaine vials;
- 8616 g. Chamber pipes;
- 8617 h. Carburetor pipes;
- 8618 i. Electric pipes;
- 8619 j. Air-driven pipes;
- 8620 k. Chillums;
- 8621 l. Bongs;
- 8622 m. Ice pipes or chillers.
- 8623 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

8624 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
8625 other relevant evidence, the following:

- 8626 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 8627 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
8628 known to the accused;
- 8629 3. Instructions, oral or written, provided with the object concerning its use;
- 8630 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
- 8631 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 8632 6. The manner in which the object is displayed for sale;
- 8633 7. Whether the accused is a legitimate supplier of like or related items to the community, such as
8634 a licensed distributor or dealer of tobacco products;
- 8635 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
8636 business enterprise;
- 8637 9. The existence and scope of legitimate uses for the object in the community;
- 8638 10. Expert testimony concerning its use or the purpose for which it was designed; and
- 8639 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
8640 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
8641 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is
8642 intended for use or designed for use as drug paraphernalia.

8643 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

8644 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
8645 circumstances where one reasonably should know, that it is either designed for use or intended by such
8646 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
8647 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
8648 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a Class
8649 1 misdemeanor.

8650 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
8651 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class
8652 6 felony.

8653 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor
8654 ~~shall be~~ is guilty of a Class 1 misdemeanor.

8655 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

8656 Any person who, while committing a crime of violence as defined in § 18.2-288 ~~(2)~~ or a felony
8657 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife
8658 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
8659 is guilty of a Class 4 felony.

8660 **§ 18.2-308.03. Fees for concealed handgun permits.**

8661 A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit,
8662 including his costs associated with the consultation with law-enforcement agencies. The local law-
8663 enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover
8664 the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount
8665 assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information,
8666 and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of
8667 Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State
8668 Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The
8669 total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be
8670 paid in one sum to the person who receives the application. Payment may be made by any method accepted
8671 by that court for payment of other fees or penalties. No payment shall be required until the application is
8672 received by the court as a complete application.

8673 B. No fee shall be charged for the issuance of such permit to a person who has retired from service
8674 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage
8675 Control Authority or the Virginia Cannabis Control Authority or as a law-enforcement officer with the
8676 Department of State Police, the Department of Wildlife Resources, or a sheriff or police department,

8677 bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service
8678 or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation,
8679 Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration,
8680 United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of
8681 State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after
8682 completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police
8683 or sheriff's department within the United States, the District of Columbia, or any of the territories of the
8684 United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination
8685 of the agencies listed in clauses (ii) ~~through~~, (iii), and (iv), after completing 15 years of service; (vi) as a
8686 designated boarding team member or boarding officer of the United States Coast Guard, after completing
8687 15 years of service or after reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after
8688 completing 15 years of service; or (viii) as a probation and parole officer authorized pursuant to § 53.1-
8689 143, after completing 15 years of service.

8690 **§ 18.2-308.012. Prohibited conduct.**

8691 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
8692 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
8693 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
8694 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of
8695 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
8696 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
8697 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
8698 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
8699 apply for a concealed handgun permit for a period of five years.

8700 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
8701 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption
8702 has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an
8703 alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises

8704 of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor.
8705 However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

8706 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

8707 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

8708 1. Any State Police officer retired from the Department of State Police, any officer retired from
8709 the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer, or animal
8710 control officer retired from a police department or sheriff's office within the Commonwealth, any special
8711 agent retired from the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control
8712 Authority, or the Virginia Cannabis Control Authority, any employee with internal investigations
8713 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired
8714 from the Department of Corrections, any conservation police officer retired from the Department of
8715 Wildlife Resources, any conservation officer retired from the Department of Conservation and Recreation,
8716 any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine
8717 Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of
8718 Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement
8719 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired
8720 investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for
8721 cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-
8722 enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of
8723 age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related
8724 injury, provided such officer carries with him written proof of consultation with and favorable review of
8725 the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency
8726 from which the officer retired or the agency that employs the officer or, in the case of special agents,
8727 issued by the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority, or
8728 the Virginia Cannabis Control Authority. A copy of the proof of consultation and favorable review shall
8729 be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the
8730 Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause

8731 withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of
8732 this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a
8733 concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement
8734 officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall
8735 be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network.
8736 However, if such officer retires on disability because of the service-related injury, and would be eligible
8737 under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the
8738 previously issued written proof of consultation.

8739 2. Any person who is eligible for retirement with at least 20 years of service with a law-
8740 enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing
8741 from such law-enforcement agency, commission, or board to accept a position covered by a retirement
8742 system that is authorized under Title 51.1, provided such person carries with him written proof of
8743 consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-
8744 enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the
8745 State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority, or the Virginia
8746 Cannabis Control Authority. A copy of the proof of consultation and favorable review shall be forwarded
8747 by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal
8748 Information Network. The chief law-enforcement officer shall not without cause withhold such written
8749 proof if the law-enforcement officer otherwise meets the requirements of this section.

8750 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed
8751 Services of the United States or National Guard, while such officer is called to active military duty,
8752 provided such officer carries with him written proof of consultation with and favorable review of the need
8753 to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and
8754 favorable review shall be valid as long as the officer is on active military duty and shall expire when the
8755 officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable
8756 review shall be entered into the Virginia Criminal Information Network. The Superintendent of State

8757 Police shall not without cause withhold such written proof if the officer is in good standing and is qualified
8758 to carry a weapon while on active law-enforcement duty.

8759 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the
8760 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement
8761 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for
8762 qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries
8763 with him written proof of consultation with and favorable review of the need to carry a concealed handgun
8764 issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the
8765 requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement
8766 Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review
8767 shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into
8768 the Virginia Criminal Information Network.

8769 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a
8770 retired or resigned law-enforcement officer, including a retired or resigned attorney for the
8771 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
8772 review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned
8773 law-enforcement officer's expense, in the same training and testing to carry firearms as is required of
8774 active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer
8775 meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or
8776 resigned officer certification, valid one year from the date of issuance, indicating that the retired or
8777 resigned officer has met the standards of the agency to carry a firearm.

8778 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
8779 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
8780 review pursuant to this section may annually participate and meet the training and qualification standards
8781 to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired
8782 or resigned law-enforcement officer meets the training and qualification standards, the chief law-
8783 enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of

8784 issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to
8785 carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the
8786 standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board,
8787 or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal
8788 Information Network.

8789 D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-
8790 308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while
8791 carrying the proof of consultation and favorable review required, shall be deemed to have been issued a
8792 concealed handgun permit.

8793 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

8794 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
8795 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~ to simultaneously
8796 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
8797 constitutes a separate and distinct felony.

8798 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
8799 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with
8800 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class
8801 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be
8802 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate
8803 and apart from, and shall be made to run consecutively with, any punishment received for the commission
8804 of the primary felony.

8805 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
8806 or other firearm or display such weapon in a threatening manner while committing or attempting to commit
8807 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
8808 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-
8809 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony; and
8810 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a

8811 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
8812 from, and shall be made to run consecutively with, any punishment received for the commission of the
8813 primary felony.

8814 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor**
8815 **products, alternative nicotine products, and hemp products intended for smoking by a person under**
8816 **21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products,**
8817 **and hemp products intended for smoking to persons under 21 years of age.**

8818 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any
8819 person-~~less~~ younger than 21 years of age, knowing or having reason to believe that such person is-~~less~~
8820 younger than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product,
8821 or hemp product intended for smoking.

8822 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products
8823 intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice,
8824 in a conspicuous manner and place, indicating that the purchase or possession of such products by persons
8825 ~~under~~ younger than 21 years of age is unlawful and (ii) located in a place that is not open to the general
8826 public and is not generally accessible to persons-~~under~~ younger than 21 years of age. An establishment
8827 that prohibits the presence of persons-~~under~~ younger than 21 years of age unless accompanied by a person
8828 21 years of age or older is not open to the general public.

8829 B. No person-~~less~~ younger than 21 years of age shall attempt to purchase, purchase, or possess any
8830 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
8831 smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products,
8832 nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person
8833 ~~less~~ younger than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products,
8834 alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or
8835 (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to
8836 further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation,
8837 provided that such medical research has been approved by an institutional review board pursuant to

8838 applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16
8839 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a
8840 law-enforcement officer or his agent when the same is necessary in the performance of his duties.

8841 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or
8842 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's
8843 license or similar photo identification issued by a government agency, that the individual is at least 21
8844 years of age. Such identification is not required from an individual whom the person has reason to believe
8845 is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person
8846 demanded, was shown, and reasonably relied upon a photo identification stating that the individual was
8847 at least 21 years of age shall be a defense to any action brought under this subsection. In determining
8848 whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may
8849 consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner
8850 of the individual.

8851 This subsection shall not apply to mail order or Internet sales, provided that the person offering
8852 the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
8853 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine
8854 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the
8855 purchaser is at least 21 years of age through a commercially available database that is regularly used by
8856 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method
8857 of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the
8858 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
8859 smoking will be released to the purchaser.

8860 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any
8861 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
8862 smoking to any active duty military personnel who are 18 years of age or older. An identification card
8863 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

8864 E. A violation of subsection A or C by an individual or by a separate retail establishment that
8865 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or
8866 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation,
8867 a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third
8868 or subsequent violation.

8869 A violation of subsection A or C by an individual or by a separate retail establishment that involves
8870 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first
8871 violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount
8872 of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it
8873 has trained its employees concerning the requirements of this section, the court shall suspend all of the
8874 penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so
8875 train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties
8876 imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative
8877 nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

8878 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation
8879 and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative
8880 to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of
8881 community service for a first violation of subsection B and up to 40 hours of community service for a
8882 second or subsequent violation. If the defendant fails or refuses to complete the community service as
8883 prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter
8884 an order pursuant to subdivision A 9 of § 16.1-278.8.

8885 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred
8886 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-
8887 enforcement officer may issue a summons for a violation of subsection A, B, or C.

8888 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages
8889 provided by the manufacturer, with the required health warning. The proprietor of every retail
8890 establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product,

8891 or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs
8892 indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp
8893 products intended for smoking to any person ~~under~~ younger than 21 years of age is prohibited by law.
8894 Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
8895 enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall
8896 be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or
8897 town which instituted the action.

8898 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health
8899 Services Administration published at 61 Federal Register 1492, the Department of Agriculture and
8900 Consumer Services may promulgate regulations which allow the Department to undertake the activities
8901 necessary to comply with such regulations.

8902 3. Any attorney for the county, city, or town in which an alleged violation of this subsection
8903 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The
8904 civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the
8905 county, city, or town which instituted the action.

8906 G. Nothing in this section shall be construed to create a private cause of action.

8907 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105
8908 may issue a summons for any violation of this section.

8909 I. As used in this section:

8910 "Alternative nicotine product" means any noncombustible product containing nicotine that is
8911 intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

8912 "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product
8913 regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
8914 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

8915 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros
8916 melanoxyton) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by,
8917 consumers as a bidi or beedie.

8918 "Hemp product intended for smoking" means the same as that term is defined in § ~~3.2-4112~~ 4.1-
8919 600.

8920 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a
8921 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,
8922 regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form.
8923 "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic
8924 pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other
8925 form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,
8926 electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product
8927 regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic
8928 Act.

8929 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless
8930 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor
8931 product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C.
8932 § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

8933 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for
8934 smoking in a manner similar to a cigarette or cigar.

8935 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
8936 **penalties.**

8937 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
8938 for the Commonwealth, witness, ~~any~~ law-enforcement officer, or animal control officer employed
8939 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
8940 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the
8941 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-
8942 6555, he is guilty of a Class 1 misdemeanor.

8943 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
8944 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ law-

8945 enforcement officer, or ~~an~~ animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
8946 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
8947 misdemeanor.

8948 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
8949 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer,
8950 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any
8951 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~
8952 ~~18.2-248.1, or § 18.2-46.2, or § 18.2-46.3,~~ or relating to the violation of or conspiracy to violate any
8953 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

8954 D. Any person who knowingly and willfully makes any materially false statement or representation
8955 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
8956 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

8957 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
8958 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
8959 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
8960 enforcement officer when (i) the officer applies physical force to the person; or (ii) the officer
8961 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
8962 immediate physical ability to place the person under arrest; and (b) a reasonable person who receives such
8963 communication knows or should know that he is not free to leave.

8964 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

8965 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
8966 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
8967 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
8968 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled
8969 substance regulated by the Drug Control Act ~~in Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1 or marijuana~~
8970 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver

8971 or conspire to deliver to any such prisoner or confined or committed person, firearms, ~~ammunitions~~
8972 ammunition, or explosives of any nature is guilty of a Class 3 felony.

8973 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

8974 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
8975 **authorizing interception of communications.**

8976 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates
8977 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
8978 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
8979 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
8980 communications by the Department of State Police, when such interception may reasonably be expected
8981 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
8982 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)
8983 of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article
8984 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are
8985 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit
8986 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for
8987 authorization for the observation or monitoring of the interception by a police department of a county or
8988 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be
8989 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

8990 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

8991 1. In the case of an application for a wire or electronic interception, a judge of competent
8992 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable
8993 cause to believe that an offense was committed, is being committed, or will be committed or the person
8994 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic
8995 communication system, maintain an address or a post office box, or are making the communication within
8996 the territorial jurisdiction of the court.

8997 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have
8998 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
8999 offense was committed, is being committed, or will be committed or the physical location of the oral
9000 communication to be intercepted is within the territorial jurisdiction of the court.

9001 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
9002 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
9003 jurisdiction where the order is entered, regardless of the physical location or the method by which the
9004 communication is captured or routed to the monitoring location.

9005 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

9006 A. The following officers shall have the powers of arrest as provided in this section:

- 9007 1. Members of the State Police force of the Commonwealth;
- 9008 2. Sheriffs of the various counties and cities, and their deputies;
- 9009 3. Members of any county police force or any duly constituted police force of any city or town of
9010 the Commonwealth;
- 9011 4. The Commissioner, members, and employees of the Marine Resources Commission granted the
9012 power of arrest pursuant to § 28.2-900;
- 9013 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 9014 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
9015 petty officers authorized under § 29.1-205 to make arrests;
- 9016 7. Conservation officers appointed pursuant to § 10.1-115;
- 9017 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
9018 appointed pursuant to § 46.2-217;
- 9019 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
9020 Control Authority;
- 9021 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
9022 23.1; and
- 9023 11. Members of the Division of Capitol Police.

9024 B. Such officers may arrest without a warrant any person who commits any crime in the presence
9025 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
9026 committed a felony not in his presence.

9027 Such officers may arrest without a warrant any person whom the officer has probable cause to
9028 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
9029 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
9030 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
9031 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
9032 officer.

9033 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
9034 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
9035 in such accident has been transported, or in the apprehension of any person charged with the theft of any
9036 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
9037 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
9038 crime has been committed by any person then and there present, apprehend such person without a warrant
9039 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
9040 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
9041 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

9042 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
9043 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
9044 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24; or
9045 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
9046 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
9047 within three hours of the alleged offense, arrest without a warrant at any location any person whom the
9048 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
9049 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

9050 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in
9051 another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout,
9052 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
9053 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
9054 reasonably accurate description of such person wanted and the crime alleged.

9055 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not
9056 committed in his presence when the officer receives a radio message from his department or other law-
9057 enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

9058 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
9059 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
9060 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
9061 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
9062 when such property is located on premises used for business or commercial purposes, or a similar local
9063 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
9064 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
9065 section for a misdemeanor violation involving shoplifting.

9066 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

9067 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
9068 19.2-81, persons for crimes involving:

- 9069 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 9070 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 9071 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-
9072 474.1; and
- 9073 ~~(d)~~ 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,
9074 or security of the population of a correctional institution.

9075 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

9076 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
9077 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
9078 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
9079 or other employee in any public school division in this Commonwealth for a felony or a Class 1
9080 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division
9081 superintendent of the employing division as soon as practicable. The contents of the report required
9082 pursuant to this section shall be utilized by the local school division solely to implement the provisions of
9083 subsection B of § 22.1-296.2 and § 22.1-315.

9084 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement
9085 officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as
9086 practicable, with the division superintendent of the school division in which the student is enrolled upon
9087 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
9088 any public school division in this Commonwealth for:

9089 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
9090 299 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;

9091 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

9092 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
9093 Title 18.2;

9094 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

9095 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
9096 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

9097 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ Chapter 11 (§ ~~18.2-247 4.1-~~
9098 1100 et seq.) ~~of Chapter 7 of Title 18.2~~ 4.1;

9099 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

9100 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9101 9. Robbery pursuant to § 18.2-58;

9102 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

9103 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

9104 12. An act of violence by a mob pursuant to § 18.2-42.1; or

9105 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

9106 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

9107 ~~A.~~In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article
9108 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement
9109 officer shall be permitted to testify as to the results of field tests that have been approved by the Department
9110 of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§
9111 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing
9112 is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§~~ §§ 4.1-600 and
9113 18.2-247.

9114 ~~B. In any trial for a violation of § 4.1-1105.1, any law enforcement officer shall be permitted to~~
9115 ~~testify as to the results of any marijuana field test approved as accurate and reliable by the Department of~~
9116 ~~Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§~~
9117 ~~2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana~~
9118 ~~provided the defendant has been given written notice of his right to request a full chemical analysis. Such~~
9119 ~~notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to~~
9120 ~~trial.~~

9121 ~~In any case in which the person accused of a violation of § 4.1-1105.1, or the attorney of record~~
9122 ~~for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to~~
9123 ~~trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion,~~
9124 ~~the court shall order that the analysis be performed by the Department of Forensic Science in accordance~~
9125 ~~with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and~~
9126 ~~return of evidence submitted for chemical analysis.~~

9127 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

9128 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
9129 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of

9130 the final judgment order, provided substantial assistance in investigating or prosecuting another person
9131 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-
9132 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-
9133 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
9134 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
9135 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
9136 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
9137 In determining whether the defendant has provided substantial assistance pursuant to the provisions of
9138 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the
9139 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
9140 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
9141 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger
9142 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the
9143 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,
9144 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not
9145 known to the defendant until more than one year after entry of the final judgment order, (2) information
9146 provided by the defendant within one year of entry of the final judgment order but that did not become
9147 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
9148 information the usefulness of which could not reasonably have been anticipated by the defendant until
9149 more than one year after entry of the final judgment order and which was promptly provided to the
9150 Commonwealth by the defendant after its usefulness was reasonably apparent.

9151 **§ 19.2-303.03. Modification of sentence for marijuana-related convictions.**

9152 A. Notwithstanding other provisions of law or rule of court, if a person who (i) was convicted of
9153 a felony offense in violation of § 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, 18.2-255, 18.2-255.2, 18.2-
9154 256, 18.2-257, 18.2-258, 18.2-258.1, 18.2-258.02, 18.2-265.3, or 18.2-474.1 as it relates to marijuana
9155 committed prior to July 1, 2021; (ii) was sentenced to jail or to the Department of Corrections or placed
9156 on community supervision as defined in § 53.1-1 for such conviction; and (iii) remains incarcerated in a

9157 state or local correctional facility or secure facility, as defined in § 16.1-228, serving the sentence for such
9158 conviction or a combination of such convictions or remains on community supervision as defined in §
9159 53.1-1 for such conviction or a combination of such convictions on July 1, 2022, the circuit court that
9160 entered the original judgment or order shall schedule a hearing by July 1, 2023, to consider modification
9161 of such person's sentence. The Commonwealth shall be made party to the proceeding and receive notice
9162 of such hearing.

9163 B. Notwithstanding other provisions of law or rule of court, a person who remains incarcerated in
9164 the custody of Department of Corrections on July 1, 2022, for a felony conviction and who is not serving
9165 a sentence for a conviction of an act of violence as defined in § 19.2-297.1 and who may have had such
9166 felony conviction sentence enhanced because of a prior felony conviction under § 18.2-248, 18.2-248.01,
9167 18.2-248.1, 18.2-250, 18.2-255, 18.2-255.2, 18.2-256, 18.2-257, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-
9168 265.3, or 18.2-474.1 as it relates to marijuana shall be eligible for parole pursuant to §§ 53.1-151, 53.1-
9169 152, and 53.1-165.1.

9170 C. Any person eligible for modification of a sentence under subsection A may file a petition for
9171 the assistance of counsel and a statement of indigency with the court on a form provided by the Supreme
9172 Court of Virginia. The court may summarily dismiss the petition if the person is not eligible for
9173 modification of a sentence based on the criteria set forth in subsection A. If the petition is not summarily
9174 dismissed and the court finds that the person is entitled to representation by counsel subject to the
9175 provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10, the court shall appoint counsel to represent the
9176 petitioner. If a person was found to be indigent at his original sentencing, he shall be entitled to assistance
9177 of counsel for the hearing on modification of his sentence without the filing of such petition. No fee shall
9178 be charged for filing a petition under this subsection. An attorney appointed to represent a person pursuant
9179 to this subsection shall be compensated at the same rate as an attorney providing representation on a felony
9180 case pursuant to § 19.2-163.

9181 D. Upon a hearing for modification of a sentence pursuant to subsection A, the court shall consider
9182 that marijuana has been legalized and shall reduce, including a reduction to time served, or otherwise
9183 modify the person's sentence, including removing such person from community supervision, unless the

9184 Commonwealth demonstrates it would not be compatible with the public interest to do so. Any
9185 modification of sentence shall not exceed the original term imposed by the court.

9186 E. Notwithstanding any other provision of law, the court may modify a sentence pursuant to this
9187 section regardless of whether any mandatory minimum term of confinement or other minimum term of
9188 incarceration is required by law.

9189 F. The circuit court shall make a decision as to whether to modify a sentence within 60 days
9190 following the sentence modification hearing. If modification of a sentence is denied, the court shall file
9191 with the record of the case a written explanation for the denial and shall provide a copy of such written
9192 explanation to the person whose sentence was considered for modification, his attorney if he is
9193 represented, and to the attorney for the Commonwealth.

9194 G. Following the entry of an order to modify a sentence pursuant to this section, the clerk of the
9195 circuit court shall cause a copy of such order to be forwarded to the Virginia Criminal Sentencing
9196 Commission, the Department of State Police, and the state correctional facility where the individual is
9197 incarcerated within 10 days.

9198 H. The decision of a circuit court to modify a sentence pursuant to this section shall not form the
9199 basis for any relief in any habeas corpus or appellate proceeding, unless such decision was contrary to
9200 law.

9201 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
9202 **transactions.**

9203 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
9204 the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter
9205 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles,
9206 and all other personal and real property of any kind or character, used in substantial connection with (a)
9207 the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or
9208 distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana—~~or~~
9209 ~~possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-~~
9210 ~~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

9211 value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-
9212 248 or for marijuana in violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in
9213 violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to
9214 such an exchange, together with any interest or profits derived from the investment of such money or other
9215 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the
9216 minimum prescribed punishment for the violation is a term of not less than five years.

9217 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
9218 Chapter 22.1 (§ 19.2-386.1 et seq.).

9219 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

9220 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
9221 lawful possession of which is not established or the title to which cannot be ascertained, which have come
9222 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-
9223 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
9224 as follows:

9225 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
9226 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
9227 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
9228 Police, or to such police department or sheriff's office for research and training purposes and for
9229 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
9230 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

9231 2. In the event no application is made under subdivision 1, the court shall order the destruction of
9232 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
9233 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
9234 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
9235 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
9236 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
9237 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,

9238 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
9239 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal
9240 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
9241 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or
9242 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in
9243 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written
9244 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a
9245 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,
9246 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the
9247 order is directed.

9248 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter
9249 11 (§ 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
9250 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-
9251 386.24.

9252 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
9253 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
9254 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
9255 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not
9256 result in the requesting agency's exceeding the limits allowed by this subsection.

9257 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,
9258 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
9259 inventory of such substance on a monthly basis, which shall include a description and weight of the
9260 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research
9261 and training purposes. A written report outlining the details of the inventory shall be made to the chief
9262 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency
9263 shall detail the substances that were used for research and training pursuant to a court order in the
9264 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with

9265 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,
9266 and manner of destruction.

9267 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

9268 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
9269 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
9270 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds
9271 of the substance randomly selected from the seized substance for representative purposes as evidence and
9272 destroy the remainder of the seized substance.

9273 Before any destruction is carried out under this section, the law-enforcement agency shall cause
9274 the material seized to be photographed with identification case numbers or other means of identification
9275 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
9276 party, if known, or his attorney, at least five days in advance that the photography will take place and that
9277 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
9278 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
9279 destruction of the time and place the destruction will occur. Any notice required under the provisions of
9280 this section shall be by first-class mail to the last known address of the person required to be notified. In
9281 addition to the substance retained for representative purposes as evidence, all photographs and records
9282 made under this section and properly identified shall be admissible in any court proceeding for any
9283 purposes for which the seized substance itself would have been admissible.

9284 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
9285 **substances, etc.**

9286 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
9287 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
9288 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
9289 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title
9290 18.2. The court in its order may make provision for ensuring integrity of these items until further order of
9291 the court.

9292 **§ 19.2-389. Dissemination of criminal history record information.**

9293 A. Criminal history record information shall be disseminated, whether directly or through an
9294 intermediary, only to:

9295 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
9296 purposes of the administration of criminal justice and the screening of an employment application or
9297 review of employment by a criminal justice agency with respect to its own employees or applicants, and
9298 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
9299 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and
9300 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of
9301 this subdivision, criminal history record information includes information sent to the Central Criminal
9302 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
9303 time employee of the State Police, a police department or sheriff's office that is a part of or administered
9304 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
9305 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
9306 the purposes of the administration of criminal justice;

9307 2. Such other individuals and agencies that require criminal history record information to
9308 implement a state or federal statute or executive order of the President of the United States or Governor
9309 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
9310 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
9311 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
9312 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

9313 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
9314 provide services required for the administration of criminal justice pursuant to that agreement which shall
9315 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
9316 security and confidentiality of the data;

9317 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
9318 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,

9319 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
9320 security of the data;

9321 5. Agencies of state or federal government that are authorized by state or federal statute or
9322 executive order of the President of the United States or Governor to conduct investigations determining
9323 employment suitability or eligibility for security clearances allowing access to classified information;

9324 6. Individuals and agencies where authorized by court order or court rule;

9325 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
9326 owned, operated or controlled by any political subdivision, and any public service corporation that
9327 operates a public transit system owned by a local government for the conduct of investigations of
9328 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
9329 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
9330 conviction record would be compatible with the nature of the employment, permit, or license under
9331 consideration;

9332 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
9333 of ~~Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered
9334 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
9335 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
9336 with a conviction record would be compatible with the nature of the employment under consideration;

9337 8. Public or private agencies when authorized or required by federal or state law or interstate
9338 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
9339 members of that individual's household, with whom the agency is considering placing a child or from
9340 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
9341 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
9342 not be further disseminated to any party other than a federal or state authority or court as may be required
9343 to comply with an express requirement of law;

9344 9. To the extent permitted by federal law or regulation, public service companies as defined in §
9345 56-1, for the conduct of investigations of applicants for employment when such employment involves

9346 personal contact with the public or when past criminal conduct of an applicant would be incompatible
9347 with the nature of the employment under consideration;

9348 10. The appropriate authority for purposes of granting citizenship and for purposes of international
9349 travel, including, but not limited to, issuing visas and passports;

9350 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
9351 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
9352 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
9353 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
9354 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
9355 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
9356 program as defined in § 15.2-1713.1;

9357 12. Administrators and board presidents of and applicants for licensure or registration as a child
9358 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
9359 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
9360 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
9361 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
9362 not be further disseminated by the facility or agency to any party other than the data subject, the
9363 Commissioner of Social Services' representative or a federal or state authority or court as may be required
9364 to comply with an express requirement of law for such further dissemination; however, nothing in this
9365 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from
9366 issuing written certifications regarding the results of a background check that was conducted before July
9367 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

9368 13. The school boards of the Commonwealth for the purpose of screening individuals who are
9369 offered or who accept public school employment and those current school board employees for whom a
9370 report of arrest has been made pursuant to § 19.2-83.1;

9371 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
9372 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and

9373 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
9374 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

9375 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
9376 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
9377 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
9378 162.9:1, subject to the limitations set out in subsection E;

9379 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
9380 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
9381 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

9382 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
9383 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
9384 forth in § 4.1-622;

9385 18. The State Board of Elections and authorized officers and employees thereof and general
9386 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
9387 respect to voter registration, limited to any record of felony convictions;

9388 19. The Commissioner of Behavioral Health and Developmental Services for those individuals
9389 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
9390 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

9391 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
9392 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
9393 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

9394 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
9395 the Department of Education, or the Department of Behavioral Health and Developmental Services for
9396 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
9397 services;

9398 22. The Department of Behavioral Health and Developmental Services and facilities operated by
9399 the Department for the purpose of determining an individual's fitness for employment pursuant to
9400 departmental instructions;

9401 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
9402 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
9403 records information on behalf of such governing boards or administrators pursuant to a written agreement
9404 with the Department of State Police;

9405 24. Public institutions of higher education and nonprofit private institutions of higher education
9406 for the purpose of screening individuals who are offered or accept employment;

9407 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
9408 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
9409 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
9410 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
9411 history record information obtained pursuant to this section or otherwise use any record of an individual
9412 beyond the purpose that such disclosure was made to the threat assessment team;

9413 26. Executive directors of community services boards or the personnel director serving the
9414 community services board for the purpose of determining an individual's fitness for employment, approval
9415 as a sponsored residential service provider, permission to enter into a shared living arrangement with a
9416 person receiving medical assistance services pursuant to a waiver, or permission for any person under
9417 contract with the community services board to serve in a direct care position on behalf of the community
9418 services board pursuant to §§ 37.2-506 and 37.2-607;

9419 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
9420 determining an individual's fitness for employment, approval as a sponsored residential service provider,
9421 permission to enter into a shared living arrangement with a person receiving medical assistance services
9422 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
9423 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and
9424 37.2-607;

9425 28. The Commissioner of Social Services for the purpose of locating persons who owe child
9426 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
9427 the name, address, demographics and social security number of the data subject shall be released;

9428 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
9429 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
9430 purpose of determining if any applicant who accepts employment in any direct care position or requests
9431 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
9432 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
9433 under contract with the provider to serve in a direct care position has been convicted of a crime that affects
9434 his fitness to have responsibility for the safety and well-being of individuals with mental illness,
9435 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

9436 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
9437 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
9438 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

9439 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
9440 Committee for Courts of Justice for the purpose of determining if any person being considered for election
9441 to any judgeship has been convicted of a crime;

9442 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
9443 determining an individual's fitness for employment in positions designated as sensitive under Department
9444 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

9445 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
9446 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
9447 Violent Predators Act (§ 37.2-900 et seq.);

9448 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
9449 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
9450 companies, for the conduct of investigations of applications for employment or for access to facilities, by
9451 contractors, leased laborers, and other visitors;

9452 35. Any employer of individuals whose employment requires that they enter the homes of others,
9453 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

9454 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
9455 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
9456 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
9457 subject to the restriction that the data shall not be further disseminated by the agency to any party other
9458 than a federal or state authority or court as may be required to comply with an express requirement of law
9459 for such further dissemination, subject to limitations set out in subsection G;

9460 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
9461 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
9462 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
9463 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
9464 administered by the Department of Medical Assistance Services;

9465 38. The State Corporation Commission for the purpose of investigating individuals who are current
9466 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
9467 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
9468 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
9469 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
9470 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
9471 applicant or its designee;

9472 39. The Department of Professional and Occupational Regulation for the purpose of investigating
9473 individuals for initial licensure pursuant to § 54.1-2106.1;

9474 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
9475 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
9476 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
9477 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

9478 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

9479 42. The State Treasurer for the purpose of determining whether a person receiving compensation
9480 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

9481 43. The Department of Education or its agents or designees for the purpose of screening individuals
9482 seeking to enter into a contract with the Department of Education or its agents or designees for the
9483 provision of child care services for which child care subsidy payments may be provided;

9484 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
9485 of a juvenile's household when completing a predispositional or postdispositional report required by §
9486 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

9487 45. The State Corporation Commission, for the purpose of screening applicants for insurance
9488 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

9489 46. Administrators and board presidents of and applicants for licensure or registration as a child
9490 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
9491 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
9492 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
9493 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
9494 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
9495 representative, or a federal or state authority or court as may be required to comply with an express
9496 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed
9497 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications
9498 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §
9499 22.1-289.039; and

9500 47. Other entities as otherwise provided by law.

9501 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
9502 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
9503 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
9504 designated in the order on whom a report has been made under the provisions of this chapter.

9505 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
9506 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
9507 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
9508 copy of conviction data covering the person named in the request to the person making the request;
9509 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
9510 making of such request. A person receiving a copy of his own conviction data may utilize or further
9511 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
9512 subject, the person making the request shall be furnished at his cost a certification to that effect.

9513 B. Use of criminal history record information disseminated to noncriminal justice agencies under
9514 this section shall be limited to the purposes for which it was given and may not be disseminated further,
9515 except as otherwise provided in subdivision A 46.

9516 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
9517 history record information for employment or licensing inquiries except as provided by law.

9518 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
9519 Exchange prior to dissemination of any criminal history record information on offenses required to be
9520 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
9521 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
9522 time is of the essence and the normal response time of the Exchange would exceed the necessary time
9523 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
9524 history record information that is required to be reported to the Central Criminal Records Exchange may
9525 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
9526 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
9527 justice agency maintaining the record as required by § 15.2-1722.

9528 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
9529 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
9530 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

9531 F. Criminal history information provided to licensed assisted living facilities and licensed adult
9532 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
9533 for any offense specified in § 63.2-1720.

9534 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
9535 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
9536 of barrier crime in § 19.2-392.02.

9537 H. Upon receipt of a written request from an employer or prospective employer, the Central
9538 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
9539 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
9540 in the request to the employer or prospective employer making the request, provided that the person on
9541 whom the data is being obtained has consented in writing to the making of such request and has presented
9542 a photo-identification to the employer or prospective employer. In the event no conviction data is
9543 maintained on the person named in the request, the requesting employer or prospective employer shall be
9544 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
9545 forms provided by the Exchange.

9546 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
9547 information pursuant to the rules of court for obtaining discovery or for review by the court.

9548 **§ 19.2-389.3. (For contingent expiration dates, see Acts 2021, Sp. Sess. I, cc. 524, 542, 550,**
9549 **and 551) Marijuana possession; limits on dissemination of criminal history record information;**
9550 **prohibited practices by employers, educational institutions, and state and local governments;**
9551 **penalty.**

9552 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor
9553 violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged
9554 under former §§ 18.2-248.1 or 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251,
9555 maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise
9556 disclosed, provided that such records may be disseminated (i) to make the determination as provided in §
9557 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial

9558 investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-
9559 152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or
9560 in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of §
9561 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the
9562 Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with
9563 investigating or serving adult local-responsible offenders and all court service units serving juvenile
9564 delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
9565 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
9566 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to
9567 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi)
9568 to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a
9569 part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible
9570 for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
9571 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the
9572 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time
9573 employee of the State Police or a police department or sheriff's office that is a part of or administered by
9574 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-
9575 time or part-time employment with the State Police or a police department or sheriff's office that is a part
9576 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health
9577 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with
9578 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time
9579 or part-time employee of the Department of Forensic Science for the purpose of screening any person for
9580 full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-
9581 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety
9582 official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for
9583 the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
9584 medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of

9585 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as
9586 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor
9587 Carrier Safety Administration.

9588 B. An employer or educational institution shall not, in any application, interview, or otherwise,
9589 require an applicant for employment or admission to disclose information concerning any arrest, criminal
9590 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
9591 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
9592 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
9593 any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or
9594 conviction is not open for public inspection pursuant to subsection A.

9595 C. Agencies, officials, and employees of the state and local governments shall not, in any
9596 application, interview, or otherwise, require an applicant for a license, permit, registration, or
9597 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
9598 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
9599 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
9600 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
9601 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
9602 inspection pursuant to subsection A. Such an application may not be denied solely because of the
9603 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

9604 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
9605 violation.

9606 **§ 19.2-389.3. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
9607 **551) Marijuana possession; limits on dissemination of criminal history record information;**
9608 **prohibited practices by employers, educational institutions, and state and local governments;**
9609 **penalty.**

9610 A. Criminal history record information contained in the Central Criminal Records Exchange,
9611 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of

9612 former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under-~~§§~~ former
9613 § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be
9614 open for public inspection or otherwise disclosed, provided that such records may be disseminated and
9615 used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility
9616 to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in
9617 the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for
9618 its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department
9619 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
9620 thereof for the purpose of screening any person for full-time or part-time employment with, or to be a
9621 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
9622 by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his
9623 designee for the purpose of screening any person who applies to be a volunteer with or an employee of an
9624 emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time
9625 employee of the Department of Forensic Science for the purpose of screening any person for full-time or
9626 part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer
9627 of a locality, or his designee who shall be an individual employed as a public safety official of the locality,
9628 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of
9629 screening any person who applies to be a volunteer with or an employee of an emergency medical services
9630 agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of
9631 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R.
9632 § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
9633 Administration; (ix) to any employer or prospective employer or its designee where federal law requires
9634 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective
9635 employer or its designee where the position that a person is applying for, or where access to the premises
9636 in or upon which any part of the duties of such position is performed or is to be performed, is subject to
9637 any requirement imposed in the interest of the national security of the United States under any security
9638 program in effect pursuant to or administered under any contract with, or statute or regulation of, the

9639 United States or any Executive Order of the President; (xi) to any person authorized to engage in the
9640 collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting
9641 such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set
9642 forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court,
9643 Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office
9644 of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee
9645 for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person
9646 for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the
9647 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a
9648 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
9649 employer or prospective employer or its designee that is allowed access to such sealed records in
9650 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant
9651 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)
9652 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the
9653 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,
9654 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as
9655 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized
9656 by law; (xxi) to the Department of Social Services or any local department of social services for purposes
9657 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating
9658 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney
9659 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the
9660 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv)
9661 to the person arrested, charged, or convicted of the offense that was sealed.

9662 B. Except as provided in subsection C, agencies, officials, and employees of state and local
9663 governments, private employers that are not subject to federal laws or regulations in the hiring process,
9664 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for
9665 employment or admission to disclose information concerning any arrest, criminal charge, or conviction

9666 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
9667 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
9668 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
9669 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open
9670 for public inspection pursuant to subsection A.

9671 C. The provisions of subsection B shall not apply if:

9672 1. The person is applying for full-time employment or part-time employment with, or to be a
9673 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
9674 by the Commonwealth or any political subdivision thereof;

9675 2. This Code requires the employer to make such an inquiry;

9676 3. Federal law requires the employer to make such an inquiry;

9677 4. The position, or access to the premises in or upon which any part of the duties of such position
9678 is performed or is to be performed, is subject to any requirement imposed in the interest of the national
9679 security of the United States under any security program in effect pursuant to or administered under any
9680 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

9681 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §
9682 9.1-134 allow the employer to access such sealed records.

9683 D. Agencies, officials, and employees of the state and local governments shall not, in any
9684 application, interview, or otherwise, require an applicant for a license, permit, registration, or
9685 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
9686 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
9687 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
9688 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
9689 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
9690 inspection pursuant to subsection A. Such an application may not be denied solely because of the
9691 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

9692 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,
9693 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal
9694 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
9695 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
9696 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
9697 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
9698 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
9699 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
9700 criminal charge, or conviction.

9701 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as
9702 defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge,
9703 or conviction against him when the record relating to such arrest, criminal charge, or conviction is not
9704 open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
9705 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
9706 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
9707 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
9708 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
9709 criminal charge, or conviction.

9710 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
9711 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
9712 subsections, such application shall include, or such entity or person shall provide, a notice to the applicant
9713 that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection
9714 A does not have to be disclosed in the application. Such notice need not be included on any application
9715 for one or more of the purposes set forth in subsection C.

9716 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
9717 conviction that is not open for public inspection pursuant to subsection A or any information from such
9718 records among law-enforcement officers and attorneys when such disclosures are made by such officers

9719 or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure
9720 or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth
9721 when related to the prosecution of a separate crime.

9722 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
9723 each violation.

9724 **§ 19.2-392.02. National criminal background checks by businesses and organizations**
9725 **regarding employees or volunteers providing care to children or the elderly or disabled.**

9726 A. For purposes of this section:

9727 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
9728 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
9729 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,
9730 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 18.2-
9731 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, 18.2-
9732 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, 18.2-56.2,
9733 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; any felony
9734 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,
9735 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, 18.2-67.5:2, 18.2-
9736 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, 18.2-87, 18.2-
9737 87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-
9738 286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony
9739 violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or
9740 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370,
9741 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-
9742 374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405
9743 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-
9744 423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-
9745 480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the

9746 laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-
9747 94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of
9748 § 4.1-1101, 4.1-1114, 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-
9749 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
9750 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250
9751 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in §
9752 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
9753 Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of
9754 insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in §
9755 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
9756 Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another
9757 jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is
9758 required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
9759 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

9760 "Barrier crime information" means the following facts concerning a person who has been arrested
9761 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
9762 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
9763 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
9764 the disposition of the charge, and any other information that may be useful in identifying persons arrested
9765 for or convicted of a barrier crime.

9766 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
9767 recreation to children or the elderly or disabled.

9768 "Department" means the Department of State Police.

9769 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
9770 or seeks to volunteer for a qualified entity.

9771 "Identification document" means a document made or issued by or under the authority of the
9772 United States government, a state, a political subdivision of a state, a foreign government, political

9773 subdivision of a foreign government, an international governmental or an international quasi-
9774 governmental organization that, when completed with information concerning a particular individual, is
9775 of a type intended or commonly accepted for the purpose of identification of individuals.

9776 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
9777 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
9778 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
9779 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
9780 operate a qualified entity.

9781 "Qualified entity" means a business or organization that provides care to children or the elderly or
9782 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
9783 pursuant to subdivision A 7 of § 22.1-289.030.

9784 B. A qualified entity may request the Department of State Police to conduct a national criminal
9785 background check on any provider who is employed by such entity. No qualified entity may request a
9786 national criminal background check on a provider until such provider has:

- 9787 1. Been fingerprinted; and
- 9788 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
9789 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
9790 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
9791 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
9792 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
9793 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
9794 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
9795 prompt determination as to the validity of such challenge before a final determination is made by the
9796 Department; and (v) a notice to the provider that prior to the completion of the background check the
9797 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
9798 for whom the qualified entity provides care.

9799 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
9800 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
9801 B, the Department shall make a determination whether the provider has been convicted of or is the subject
9802 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
9803 information, the Department shall access the national criminal history background check system, which
9804 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
9805 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If
9806 the Department receives a background report lacking disposition data, the Department shall conduct
9807 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
9808 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
9809 days.

9810 D. Any background check conducted pursuant to this section for a provider employed by a private
9811 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
9812 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
9813 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

9814 E. Any background check conducted pursuant to this section for a provider employed by a
9815 governmental entity shall be provided to that entity.

9816 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
9817 national criminal background check, the Department and the Federal Bureau of Investigation may each
9818 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
9819 with the fingerprints.

9820 G. The failure to request a criminal background check pursuant to subsection B shall not be
9821 considered negligence per se in any civil action.

9822 **§ 19.2-392.2:1. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 550 and 551, cl.**
9823 **9) Former marijuana offenses; automatic expungement.**

9824 A. Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a
9825 misdemeanor violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any

9826 violation charged under either section and the charge was deferred and dismissed, shall be ordered to be
9827 automatically expunged in accordance with the provisions of this section.

9828 B. No later than July 1, 2025, the Department of State Police shall determine which offenses in the
9829 Central Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection
9830 A. The Department of State Police shall provide an electronic list of all offenses that meet the criteria for
9831 automatic expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk
9832 who maintains a case management system that interfaces with the Department of State Police under
9833 subsection B of § 17.1-502.

9834 C. Upon receipt of the electronic list from the Department of State Police provided under
9835 subsection B, the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses
9836 that meet the criteria for automatic expungement set forth in subsection A to the clerk of each circuit court
9837 in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case
9838 management system maintained by the Executive Secretary.

9839 D. Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit
9840 court shall prepare an order and the chief judge of that circuit court shall enter such order directing that
9841 the offenses that meet the criteria for automatic expungement set forth in subsection A be automatically
9842 expunged under the process set forth in subsections E, F, and G. Such order shall contain the names of the
9843 persons charged with or convicted of such offenses.

9844 E. The clerk of each circuit court shall provide an electronic copy of any order entered under
9845 subsection D to the Department of State Police. Upon receipt of such order, the Department of State Police
9846 (i) shall not disseminate any criminal history record information contained in the Central Criminal Records
9847 Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be
9848 expunged, except for purposes set forth in this section and pursuant to rules and regulations adopted
9849 pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 and (ii) shall electronically notify
9850 those agencies and individuals known to maintain or to have obtained such a record that such record has
9851 been ordered to be expunged and may only be disseminated for purposes set forth in this section and
9852 pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-

9853 134. Any records maintained electronically that are transformed or transferred by whatever means to an
9854 offline system or to a confidential and secure area inaccessible from normal use within the system in which
9855 the record is maintained shall be considered expunged, provided that such records are accessible only to
9856 the manager of the records or their designee.

9857 F. Records relating to an arrest, charge, or conviction that was ordered to be expunged pursuant to
9858 this section shall not be open for public inspection or otherwise disclosed, provided that such records may
9859 be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-
9860 308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the
9861 fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal
9862 Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State
9863 Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or
9864 any political subdivision thereof for the purpose of screening any person for full-time employment or part-
9865 time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office
9866 that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State
9867 Health Commissioner or his designee for the purpose of screening any person who applies to be a
9868 volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi)
9869 to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening
9870 any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the
9871 chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a
9872 public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and
9873 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an
9874 emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time
9875 employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical
9876 examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal
9877 Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where
9878 federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any
9879 employer or prospective employer or its designee where the position that a person is applying for, or where

9880 access to the premises in or upon which any part of the duties of such position is performed or is to be
9881 performed, is subject to any requirement imposed in the interest of the national security of the United
9882 States under any security program in effect pursuant to or administered under any contract with, or statute
9883 or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized
9884 to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes
9885 of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and
9886 Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the
9887 Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a
9888 court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the
9889 House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of
9890 screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court
9891 or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee
9892 where this Code or a local ordinance requires the employer to inquire about prior criminal charges or
9893 convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such
9894 expunged records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and
9895 procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of
9896 complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of
9897 a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory
9898 duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in
9899 a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use
9900 in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local
9901 department of social services for purposes of performing any statutory duties as required under Title 63.2;
9902 (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law
9903 in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining
9904 eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's
9905 eligibility to be empaneled as a juror; ~~and~~ (xxv) to any full-time or part-time employee of the Virginia

9906 Cannabis Control Authority for the purpose of determining whether a person qualifies as a social equity
9907 applicant; and (xxvi) to the person arrested, charged, or convicted of the offense that was expunged.

9908 G. The Department of Motor Vehicles shall not expunge any conviction or any charge that was
9909 deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of
9910 federal regulatory record retention requirements or (ii) in violation of federal program requirements if the
9911 Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a
9912 conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an
9913 offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory
9914 record retention period has run and all federal program requirements associated with a suspension have
9915 been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this
9916 subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of
9917 State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement
9918 at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when
9919 the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date;
9920 and (d) notify the Department of State Police when such record has been expunged within the Department
9921 of Motor Vehicles' records.

9922 H. All electronic lists created in accordance with this section are not subject to further
9923 dissemination unless explicitly provided for by this section. Any expungement order issued pursuant to
9924 this section shall be sealed and may only be disseminated for the purposes set forth in this section and
9925 pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-
9926 134. Any willful and intentional unlawful dissemination is punishable as an unlawful dissemination of
9927 criminal history record information in violation of § 9.1-136.

9928 **§ 19.2-392.2:2. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 550 and 551, cl.**
9929 **9) Former marijuana offenses; petition for expungement.**

9930 A. A person who has been convicted or adjudicated delinquent of a felony violation of former §
9931 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or charged under either
9932 section and the charge is deferred and dismissed, may file a petition setting forth the relevant facts and

9933 requesting expungement of the police records and the court records relating to the arrest, charge,
9934 conviction, or adjudication.

9935 B. The petition with a copy of the warrant, summons, or indictment if reasonably available shall
9936 be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except
9937 where not reasonably available, the date of arrest and the name of the arresting agency. Where this
9938 information is not reasonably available, the petition shall state the reason for such unavailability. The
9939 petition shall further state the specific criminal charge, conviction, or adjudication to be expunged, the
9940 date of final disposition of the charge, conviction, or adjudication as set forth in the petition, the petitioner's
9941 date of birth, and the full name used by the petitioner at the time of arrest.

9942 C. A copy of the petition shall be served on the attorney for the Commonwealth of the city or
9943 county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer
9944 to the petition or may give written notice to the court that he does not object to the petition within 21 days
9945 after it is served on him.

9946 D. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's
9947 fingerprints and shall provide that agency with a copy of the petition for expungement. The law-
9948 enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE)
9949 with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a
9950 copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry
9951 that the petitioner wishes to expunge, if applicable, and the set of fingerprints. Upon completion of the
9952 hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the
9953 entry of an order of expungement or an order denying the petition for expungement, the court shall cause
9954 the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the
9955 petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the
9956 clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

9957 E. After receiving the criminal history record information from the CCRE, the court shall conduct
9958 a hearing on the petition. If the court finds that the continued existence and possible dissemination of
9959 information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause

9960 circumstances that constitute a manifest injustice to the petitioner, it shall enter an order requiring the
9961 expungement of the police and court records, including electronic records, relating to the arrest, charge,
9962 conviction, or adjudication. Otherwise, it shall deny the petition. However, if the petitioner has no prior
9963 criminal record and the arrest, charge, conviction, or adjudication was for a misdemeanor violation of
9964 subsection A of § 18.2-265.3, the petitioner shall be entitled, in the absence of good cause shown to the
9965 contrary by the Commonwealth, to expungement of the police and court records relating to the arrest,
9966 charge, conviction, or adjudication and the court shall enter an order of expungement. If the attorney for
9967 the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court
9968 pursuant to subsection C that he does not object to the petition and (ii) when the arrest, charge, conviction,
9969 or adjudication to be expunged is a felony violation of former § 18.2-248.1, stipulates in such written
9970 notice that the continued existence and possible dissemination of information relating to the arrest, charge,
9971 conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest
9972 injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

9973 F. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by
9974 the decision of the court may appeal, as provided by law in civil cases.

9975 G. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such
9976 order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations
9977 adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of
9978 such records shall be effected.

9979 H. Records relating to an arrest, charge, conviction, or adjudication that was ordered to be
9980 expunged pursuant to this section shall not be open for public inspection or otherwise disclosed, provided
9981 that such records may be disseminated and used for the following purposes: (i) to make the determination
9982 as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison
9983 utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia
9984 Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of
9985 the State Police or a police department or sheriff's office that is a part of or administered by the
9986 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time

9987 employment or part-time employment with, or to be a volunteer with, the State Police or a police
9988 department or sheriff's office that is a part of or administered by the Commonwealth or any political
9989 subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any
9990 person who applies to be a volunteer with or an employee of an emergency medical services agency as
9991 provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic
9992 Science for the purpose of screening any person for full-time or part-time employment with the
9993 Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee
9994 who shall be an individual employed as a public safety official of the locality, that has adopted an
9995 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who
9996 applies to be a volunteer with or an employee of an emergency medical services agency as provided in §
9997 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any
9998 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the
9999 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any
10000 employer or prospective employer or its designee where federal law requires the employer to inquire about
10001 prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where
10002 the position that a person is applying for, or where access to the premises in or upon which any part of the
10003 duties of such position is performed or is to be performed, is subject to any requirement imposed in the
10004 interest of the national security of the United States under any security program in effect pursuant to or
10005 administered under any contract with, or statute or regulation of, the United States or any Executive Order
10006 of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution
10007 under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to
10008 administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of
10009 Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv)
10010 to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of
10011 Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee
10012 on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk,
10013 magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or

10014 prospective employer or its designee where this Code or a local ordinance requires the employer to inquire
10015 about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee
10016 that is allowed access to such expunged records in accordance with the rules and regulations adopted
10017 pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening
10018 service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and
10019 any person accused of a violation of law, or counsel for the accused, in order to comply with any
10020 constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an
10021 accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such
10022 proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the
10023 Department of Social Services or any local department of social services for purposes of performing any
10024 statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and
10025 custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the
10026 Commonwealth and the court for purposes of determining eligibility for expungement pursuant to the
10027 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; ~~and~~ (xxv)
10028 to any full-time or part-time employee of the Virginia Cannabis Control Authority for the purpose of
10029 determining whether a person qualifies as a social equity applicant; and (xxvi) to the person arrested,
10030 charged, convicted, or adjudicated delinquent of the offense that was expunged.

10031 I. The Department of Motor Vehicles shall not expunge any conviction, adjudication, or any charge
10032 that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation
10033 of federal regulatory record retention requirements or (ii) in violation of federal program requirements if
10034 the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a
10035 conviction, adjudication, or deferral and dismissal ordered to be expunged. Upon receipt of an order
10036 directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the
10037 federal regulatory record retention period has run and all federal program requirements associated with a
10038 suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense
10039 pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the
10040 Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting

10041 expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at
10042 the time when the expungement is ordered, on which such record can be expunged; (c) expunge such
10043 record on that date; and (d) notify the Department of State Police when such record has been expunged
10044 within the Department of Motor Vehicles' records.

10045 J. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the
10046 Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the
10047 petitioner such costs paid by the petitioner.

10048 K. Any order entered where (i) the court or parties failed to strictly comply with the procedures
10049 set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable
10050 upon motion and notice made within three years of the entry of such order.

10051 **§ 19.2-392.2:3. Automatic expungement; certain former marijuana offenses.**

10052 A. Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a
10053 misdemeanor violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any
10054 violation charged under either section and the charge was deferred and dismissed, shall be ordered to be
10055 automatically expunged in accordance with the provisions of this section.

10056 B. No later than July 1, 2025, the Department of State Police shall determine which offenses in the
10057 Central Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection
10058 A. The Department of State Police shall provide an electronic list of all offenses that meet the criteria for
10059 automatic expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk
10060 who maintains a case management system that interfaces with the Department of State Police under
10061 subsection B of § 17.1-502.

10062 C. Upon receipt of the electronic list from the Department of State Police provided under
10063 subsection B, the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses
10064 that meet the criteria for automatic expungement set forth in subsection A to the clerk of each circuit court
10065 in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case
10066 management system maintained by the Executive Secretary.

10067 D. Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit
10068 court shall prepare an order and the chief judge of that circuit court shall enter such order directing that
10069 the offenses that meet the criteria for automatic expungement set forth in subsection A be automatically
10070 expunged under the process set forth in this section. Such order shall contain the names of the persons
10071 charged with or convicted of such offenses.

10072 E. The clerk of each circuit court shall provide an electronic copy of any order entered under
10073 subsection D to the Department of State Police. Upon electronic notification that a court order for
10074 expungement has been entered pursuant to subsection D, the Department of State Police shall, pursuant to
10075 the rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate
10076 expungement or removal of any records relating to the offenses ordered to be expunged shall be effected
10077 and shall electronically notify those agencies and individuals known to maintain or to have obtained such
10078 a record that such record has been ordered to be expunged.

10079 F. The Department of Motor Vehicles shall not expunge any conviction or any charge that was
10080 deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of
10081 federal regulatory record retention requirements or (ii) in violation of federal program requirements if the
10082 Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a
10083 conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an
10084 offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory
10085 record retention period has run and all federal program requirements associated with a suspension have
10086 been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this
10087 subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of
10088 State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement
10089 at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when
10090 the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date;
10091 and (d) notify the Department of State Police when such record has been expunged within the Department
10092 of Motor Vehicles' records.

10093 G. Any order entered where (i) the court or parties failed to strictly comply with the procedures
10094 set forth in this section or (ii) the court enters an order for the expungement of records contrary to law
10095 shall be voidable upon motion and notice made within three years of the entry of such order.

10096 **§ 19.2-392.2:4. Expungement; certain former marijuana offenses.**

10097 A. A person who has been convicted of a felony violation of former § 18.2-248.1 or a violation of
10098 subsection A of § 18.2-265.3 as it relates to marijuana, or charged under either section and the charge is
10099 deferred and dismissed, may file a petition setting forth the relevant facts and requesting expungement of
10100 the police records and the court records relating to the arrest, charge, or conviction.

10101 B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this
10102 section if such person files a petition to proceed without the payment of fees and costs, and the court with
10103 which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

10104 C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall
10105 be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except
10106 where not reasonably available, the date of arrest, the name of the arresting agency, and the date of
10107 conviction. Where this information is not reasonably available, the petition shall state the reason for such
10108 unavailability. The petition shall further state the specific criminal charge or conviction to be expunged,
10109 the date of final disposition of the charge or conviction as set forth in the petition, the petitioner's date of
10110 birth, sex, race, and social security number, if available, and the full name used by the petitioner at the
10111 time of arrest or summons.

10112 D. The Commonwealth shall be made a party to the proceeding. A copy of the petition shall be
10113 served on the attorney for the Commonwealth of the city or county in which the petition is filed. The
10114 attorney for the Commonwealth may file an objection or answer to the petition or may give written notice
10115 to the court that he does not object to the petition within 21 days after it is served on him.

10116 E. Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth
10117 or a law-enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal
10118 history record of the petitioner. Upon completion of the hearing, the court shall cause the criminal history

10119 record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the
10120 petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

10121 F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on
10122 the petition. The court shall enter an order requiring the expungement of the criminal history record
10123 information and court records, including electronic records, relating to the charge or conviction, if the
10124 court finds that the continued existence and possible dissemination of information relating to the arrest,
10125 charge, or conviction of the petitioner causes or may cause circumstances that constitute a manifest
10126 injustice to the petitioner. Otherwise, it shall deny the petition.

10127 G. However, if the petitioner has no prior criminal record and the arrest, charge, or conviction was
10128 for a misdemeanor violation of subsection A of § 18.2-265.3, the petitioner shall be entitled, in absence
10129 of good cause shown to the contrary by the Commonwealth, to expungement of the police and court
10130 records relating to the arrest, charge, or conviction and the court shall enter an order of expungement. If
10131 the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written
10132 notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in
10133 such written notice that the petitioner is eligible to have such offense expunged, and the continued
10134 existence and possible dissemination of information relating to the charge or conviction of the petitioner
10135 causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may
10136 enter an expungement order without conducting a hearing.

10137 H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

10138 I. Upon the entry of an order of expungement, the clerk of the court shall provide an electronic
10139 copy of such order to the Department of State Police. Upon electronic notification that a court order for
10140 expungement has been entered, the Department of State Police shall, pursuant to the rules and regulations
10141 adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of
10142 any records relating to the offenses ordered to be expunged shall be effected and electronically notify
10143 those agencies and individuals known to maintain or have obtained such a record that such record has
10144 been ordered to be expunged.

10145 J. The Department of Motor Vehicles shall not expunge any conviction or any charge that was
10146 deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of
10147 federal regulatory record retention requirements or (ii) in violation of federal program requirements if the
10148 Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a
10149 conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an
10150 offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory
10151 record retention period has run and all federal program requirements associated with a suspension have
10152 been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this
10153 subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of
10154 State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement
10155 at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when
10156 the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date;
10157 and (d) notify the Department of State Police when such record has been expunged within the Department
10158 of Motor Vehicles' records.

10159 K. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the
10160 Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the
10161 petitioner such costs paid by the petitioner.

10162 L. Any order entered where (i) the court or parties failed to strictly comply with the procedures set
10163 forth in this section or (ii) the court enters an order for the expungement of records contrary to law shall
10164 be voidable upon motion and notice made within three years of the entry of such order.

10165 M. If a petitioner qualifies to file a petition for expungement of records without the payment of
10166 fees and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then
10167 appoint counsel to file the petition for expungement of records and represent the petitioner in the
10168 expungement proceedings. Counsel appointed to represent such a petitioner shall be compensated for his
10169 services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a
10170 total amount not to exceed \$120, as determined by the court, and such compensation shall be paid from
10171 the Sealing Fee Fund as provided in § 17.1-205.1.

10172 **§ 19.2-392.3. Disclosure of expunged records.**

10173 A. It shall be unlawful for any person having or acquiring access to an expunged court or police
10174 record to open or review it or to disclose to another person any information from it without an order from
10175 the court which ordered the record expunged.

10176 B. Upon a verified petition filed by the attorney for the Commonwealth alleging that the record is
10177 needed by (i) a law-enforcement agency or the Department of Forensic Science for purposes of
10178 employment application as an employee of a law-enforcement agency or the Department of Forensic
10179 Science or (ii) for a pending criminal investigation and that the investigation will be jeopardized or that
10180 life or property will be endangered without immediate access to the record, the court may enter an ex parte
10181 order, without notice to the person, permitting such access. An ex parte order may permit a review of the
10182 record, but may not permit a copy to be made of it.

10183 C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor.

10184 **§ 19.2-392.6. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**
10185 **Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction.**

10186 A. If a person was charged with an offense in violation of § 4.1-305 or former § 18.2-250.1, and
10187 such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including
10188 any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth in
10189 § 19.2-392.7, subject to the provisions of subsections C and D.

10190 B. If a person was convicted of a violation of any of the following sections, such conviction,
10191 including any records relating to such conviction, shall be ordered to be automatically sealed in the manner
10192 set forth in § 19.2-392.7, subject to the provisions of subsections C and D: § 4.1-305, 18.2-96, 18.2-103,
10193 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or former § 18.2-250.1
10194 or 18.2-415.

10195 C. Subject to the provisions of subsection D, any offense listed under subsection A and any
10196 conviction listed under subsection B shall be ordered to be automatically sealed if seven years have passed
10197 since the date of the dismissal or conviction and the person charged with or convicted of such offense has
10198 not been convicted of violating any law of the Commonwealth that requires a report to the Central

10199 Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia,
10200 or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time
10201 period.

10202 D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral
10203 or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under
10204 subsection A or B. No conviction listed under subsection B shall be automatically sealed if, on the date of
10205 the conviction, the person was convicted of another offense that is not eligible for automatic sealing under
10206 subsection A or B.

10207 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
10208 court pursuant to the provisions of § 19.2-392.12.

10209 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine**
10210 **products.**

10211 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
10212 prescribed by the Board of Education.

10213 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
10214 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
10215 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
10216 educational materials to the Department of Education. The Department of Education shall review and shall
10217 distribute such materials as are approved to the public schools.

10218 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
10219 shall distribute to each local school division educational materials concerning the health and safety risks
10220 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
10221 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
10222 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
10223 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
10224 educational materials.

10225 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

10226 A. School boards shall expel from school attendance any student whom such school board has
 10227 determined, in accordance with the procedures set forth in this article, to have brought a controlled
 10228 substance, or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247 onto
 10229 school property or to a school-sponsored activity. A school administrator, pursuant to school board policy,
 10230 or a school board may, however, determine, based on the facts of a particular situation, that special
 10231 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion
 10232 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee
 10233 to conduct a preliminary review of such cases to determine whether a disciplinary action other than
 10234 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
 10235 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
 10236 with the procedures set forth in this article. Nothing in this section shall be construed to require a student's
 10237 expulsion regardless of the facts of the particular situation.

10238 B. Each school board shall revise its standards of student conduct to incorporate the requirements
 10239 of this section no later than three months after the date on which this act becomes effective.

10240 **§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

10241 A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was
 10242 killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus
 10243 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer,
 10244 firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the
 10245 Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, state
 10246 correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy
 10247 sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty
 10248 under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on
 10249 official state duty, and any individual whose spouse was killed in the line of duty while employed or
 10250 serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at
 10251 any public institution of higher education under the following conditions:

10252 1. The chief executive officer of the deceased individual's employer certifies that such individual
10253 was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

10254 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution
10255 and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress
10256 are eligible for renewal of such waiver.

10257 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional
10258 charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user
10259 fees such as room and board charges.

10260 C. Each public institution of higher education shall include in its catalog or equivalent publication
10261 a statement describing the benefits available pursuant to this section.

10262 **§ 23.1-1301. Governing boards; powers.**

10263 A. The board of visitors of each baccalaureate public institution of higher education or its designee
10264 may:

- 10265 1. Make regulations and policies concerning the institution;
- 10266 2. Manage the funds of the institution and approve an annual budget;
- 10267 3. Appoint the chief executive officer of the institution;
- 10268 4. Appoint professors and fix their salaries; and
- 10269 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

10270 B. The governing board of each public institution of higher education or its designee may:

10271 1. In addition to the powers set forth in Restructured Higher Education Financial and
10272 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
10273 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
10274 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
10275 and administered in the same manner as all other gifts and bequests;

10276 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
10277 purposes on any property owned by the institution;

10278 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
10279 maintained, or controlled by the institution;

10280 4. Adopt regulations or institution policies for the employment and dismissal of professors,
10281 teachers, instructors, and other employees;

10282 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
10283 to the regulations or institution policies required pursuant to § 23.1-1303;

10284 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
10285 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
10286 by such regulations or policies;

10287 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
10288 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
10289 the awareness and prevention of sexual crimes committed upon students;

10290 8. Establish guidelines for the initiation or induction of students into any social fraternity or
10291 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

10292 9. Assign any interest it possesses in intellectual property or in materials in which the institution
10293 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
10294 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
10295 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
10296 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
10297 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and
10298 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
10299 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
10300 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
10301 In the event the Governor does not approve such transfer, the materials shall remain the property of the
10302 respective institutions and may be used and developed in any manner permitted by law;

10303 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a
10304 "state public body" for purposes of subsection D of § 2.2-3708.2; and

10305 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
10306 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
10307 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
10308 statutes and local ordinances with respect to offenses occurring on the property of the institution.

10309 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

10310 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the
10311 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth
10312 without the payment of toll while in the performance of their official duties:

- 10313 1. The Commissioner of Highways;
- 10314 2. Members of the Commonwealth Transportation Board;
- 10315 3. Employees of the Department of Transportation;
- 10316 4. The Superintendent of the Department of State Police;
- 10317 5. Officers and employees of the Department of State Police;
- 10318 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority or the
10319 Board of Directors of the Virginia Cannabis Control Authority;
- 10320 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control
10321 Authority or the Virginia Cannabis Control Authority and special agents of the Virginia Alcoholic
10322 Beverage Control Authority or the Virginia Cannabis Control Authority;
- 10323 8. The Commissioner of the Department of Motor Vehicles;
- 10324 9. Employees of the Department of Motor Vehicles;
- 10325 10. Local police officers;
- 10326 11. Sheriffs and their deputies;
- 10327 12. Regional jail officials;
- 10328 13. Animal wardens;
- 10329 14. The Director and officers of the Department of Wildlife Resources;
- 10330 15. Persons operating firefighting equipment and emergency medical services vehicles as defined
10331 in § 32.1-111.1;

- 10332 16. Operators of school buses being used to transport pupils to or from schools;
- 10333 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the
- 10334 driver, and used to regularly transport workers to and from their places of employment and (ii) public
- 10335 transit buses;
- 10336 18. Employees of the Department of Rail and Public Transportation;
- 10337 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation
- 10338 Act of 1988; and
- 10339 20. Law-enforcement officers of the Virginia Marine Resources Commission.
- 10340 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free
- 10341 use of such facilities, in cases of emergency and circumstances of concern for public safety on the
- 10342 highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or
- 10343 potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the
- 10344 toll facility by permitting the temporary suspension of toll collection operations on its facilities.
- 10345 1. The assessment of the threat to public safety shall be performed and the decision temporarily to
- 10346 suspend toll collection operations shall be made by the Commissioner of Highways or his designee.
- 10347 2. Major incidents that may require the temporary suspension of toll collection operations shall
- 10348 include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of
- 10349 hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions;
- 10350 and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state
- 10351 of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations
- 10352 in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of
- 10353 Highways shall reinstate toll collection when the mandatory evacuation period ends.
- 10354 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly
- 10355 liable for any incident resulting in the suspension of toll collections as provided in this subsection, the
- 10356 court may assess against the person an amount equal to lost toll revenue as a part of the costs of the
- 10357 proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the
- 10358 Department of Transportation for deposit into the toll road fund.

10359 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll
10360 bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor
10361 punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in
10362 subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel,
10363 or toll road is guilty of a Class 1 misdemeanor.

10364 D. Any vehicle operated by the holder of a valid driver's license or other document issued under
10365 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the
10366 operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and
10367 other toll facilities in the Commonwealth if:

- 10368 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 10369 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth
10370 or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being
10371 severely physically disabled and having permanent upper limb mobility or dexterity impairments that
10372 substantially impair his ability to deposit coins in toll baskets;
- 10373 3. The driver has applied for and received from the Department of Transportation a vehicle window
10374 sticker identifying him as eligible for such free passage; and
- 10375 4. Such identifying window sticker is properly displayed on the vehicle.

10376 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in
10377 the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by
10378 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by
10379 such persons.

10380 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the
10381 provisions of § 22.1-187.

10382 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use
10383 the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or
10384 facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation

10385 Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct
10386 of official business:

- 10387 1. The Commissioner of Highways;
- 10388 2. Members of the Commonwealth Transportation Board;
- 10389 3. Employees of the Department of Transportation;
- 10390 4. The Superintendent of the Department of State Police;
- 10391 5. Officers and employees of the Department of State Police;
- 10392 6. The Commissioner of the Department of Motor Vehicles;
- 10393 7. Employees of the Department of Motor Vehicles; and
- 10394 8. Sheriffs and deputy sheriffs.

10395 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision
 10396 B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection
 10397 operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private
 10398 Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in
 10399 affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent
 10400 with the terms of the applicable comprehensive agreement between the operator and the Department. The
 10401 Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this
 10402 subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on
 10403 other tolled facilities in the same affected area, whichever occurs first.

10404 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in
 10405 Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements
 10406 of subdivisions D 1 through 4.

10407 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use
 10408 of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of
 10409 subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined
 10410 pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

10411 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

10412 A. It ~~shall be~~ is unlawful for any person to obtain a Virginia driver's license, special identification
10413 card, vehicle registration, certificate of title, or other document issued by the Department if such person
10414 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
10415 entitled thereto, including obtaining any document issued by the Department through the use of
10416 counterfeit, forged, or altered documents.

10417 B. It ~~shall be~~ is unlawful to aid any person to obtain any driver's license, special identification card,
10418 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

10419 C. It ~~shall be~~ is unlawful to knowingly possess or use for any purpose any driver's license, special
10420 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
10421 provisions of subsection A.

10422 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
10423 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
10424 of any document issued by the Department for the purpose of engaging in any age-limited activity,
10425 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.
10426 However, if a person is charged and convicted of any other violation of this section, such offense shall
10427 constitute a Class 6 felony.

10428 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
10429 identification card, vehicle registration, certificate of title, or other document issued by the Department
10430 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
10431 notice of the cancellation to the address of record maintained by the Department.

10432 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
10433 **card to obtain alcoholic beverages or marijuana; penalties.**

10434 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
10435 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United
10436 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
10437 United States Armed Forces identification card; United States passport or foreign government visa;
10438 Virginia Department of Motor Vehicles special identification card; official identification issued by any

10439 other federal, state or foreign government agency; or official student identification card of an institution
10440 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
10441 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
10442 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

10443 **§ 48-17.1. Temporary injunctions against alcoholic beverage or marijuana sales.**

10444 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
10445 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
10446 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such
10447 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
10448 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
10449 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief
10450 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon
10451 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,
10452 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court
10453 that the threat to public safety complained of exists and is likely to continue if such injunction is not
10454 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.
10455 The respondent shall be served with notice of the time and place of the hearing and copies of all
10456 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the
10457 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of
10458 the injunction has been abated by reason of a change of ownership, management, or business operations
10459 at the establishment, or other change in circumstance.

10460 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
10461 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia
10462 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an
10463 investigation into the activities at the establishment complained of and conduct an administrative hearing.
10464 After the Virginia Alcoholic Beverage Control Authority or Virginia Cannabis Control Authority hearing
10465 and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority or

10466 Virginia Cannabis Control Authority, regardless of disposition, any injunction issued hereunder shall be
10467 null, without further action by the complainant, respondent, or the court.

10468 **§ 51.1-212. Definitions.**

10469 As used in this chapter, unless the context requires a different meaning:

10470 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
10471 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
10472 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the
10473 provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic
10474 Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1
10475 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6
10476 (§ 4.1-600 et seq.) of Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources
10477 Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and
10478 including correctional officers employed at a juvenile correction facility as the term is defined in § 66-
10479 25.3, (vii)~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii)~~any~~ commercial vehicle
10480 enforcement officer employed by the Department of State Police.

10481 "Member" means any person included in the membership of the Retirement System as provided
10482 in this chapter.

10483 "Normal retirement date" means a member's sixtieth birthday.

10484 "Retirement System" means the Virginia Law Officers' Retirement System.

10485 **§ 53.1-165.1. Limitation on the application of parole statutes.**

10486 A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence
10487 imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after
10488 January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or
10489 after January 1, 1995, shall not be eligible for parole upon that offense.

10490 B. The provisions of this article shall apply to any person who was sentenced by a jury prior to
10491 June 9, 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated
10492 for such offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony offenses

10493 where the victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in violation of §
10494 18.2-67.1; (c) object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual battery in
10495 violation of § 18.2-67.3; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal
10496 knowledge in violation of § 18.2-63, 18.2-64.1, or 18.2-64.2.

10497 C. The Parole Board shall establish procedures for consideration of parole of persons entitled under
10498 subsection B consistent with the provisions of § 53.1-154.

10499 D. Any person who meets eligibility criteria for parole under subsection B and pursuant to § 53.1-
10500 151 as of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021, allowing for
10501 extension of time for reasonable cause.

10502 E. Notwithstanding the provisions of subsection A or any other provision of this article to the
10503 contrary, any person sentenced to a term of life imprisonment for a single felony or multiple felonies
10504 committed while the person was a juvenile and who has served at least 20 years of such sentence shall be
10505 eligible for parole and any person who has active sentences that total more than 20 years for a single felony
10506 or multiple felonies committed while the person was a juvenile and who has served at least 20 years of
10507 such sentences shall be eligible for parole. The Board shall review and decide the case of each prisoner
10508 who is eligible for parole in accordance with § 53.1-154 and rules adopted pursuant to subdivision 2 of §
10509 53.1-136.

10510 F. The provisions of this article shall apply to any person convicted of a felony and who is not
10511 servng a sentence for a conviction of an act of violence as defined in § 19.2-297.1, who may have had a
10512 sentence enhanced because of a felony conviction under § 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250,
10513 18.2-255, 18.2-255.2, 18.2-256, 18.2-257, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.3, or 18.2-474.1
10514 as it relates to marijuana, when such felony offense was committed on or after January 1, 1995, and who
10515 was committed by a court under the laws of the Commonwealth to the Department of Corrections and
10516 remains incarcerated for such offense on July 1, 2022.

10517 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

10518 This section shall apply to any person who is not a qualified voter because of a felony conviction,
10519 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
10520 meets the conditions and requirements set out in this section.

10521 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
10522 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-
10523 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)
10524 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
10525 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
10526 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
10527 such petition, the court may approve the petition for restoration to the person of his right if the court is
10528 satisfied from the evidence presented that the petitioner has completed, five or more years previously,
10529 service of any sentence and any modification of sentence including probation, parole, and suspension of
10530 sentence; that the petitioner has demonstrated civic responsibility through community or comparable
10531 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
10532 the same period.

10533 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
10534 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
10535 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
10536 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
10537 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
10538 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
10539 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
10540 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
10541 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
10542 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
10543 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

10544 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
10545 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
10546 vote.

10547 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

10548 A. Any person shall be regarded as practicing the healing arts who actually engages in such
10549 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
10550 to the public in any manner a readiness to practice or who uses in connection with his name the words or
10551 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
10552 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
10553 to heal, cure or relieve those suffering from any injury, deformity or disease.

10554 Signing a birth or death certificate, or signing any statement certifying that the person so signing
10555 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
10556 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
10557 practicing the healing arts within the meaning of this chapter except where persons other than physicians
10558 are required to sign birth certificates.

10559 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
10560 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
10561 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
10562 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
10563 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance
10564 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
10565 that such person is registered with the Board of Pharmacy to issue written certifications for the use of
10566 cannabis products, as defined in § 54.1-3408.3.

10567 **§ 54.1-3401. Definitions.**

10568 As used in this chapter, unless the context requires a different meaning:

10569 "Administer" means the direct application of a controlled substance, whether by injection,
10570 inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner

10571 or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and
10572 in the presence of the practitioner.

10573 "Advertisement" means all representations disseminated in any manner or by any means, other
10574 than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the
10575 purchase of drugs or devices.

10576 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,
10577 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or
10578 employee of the carrier or warehouseman.

10579 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically
10580 related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

10581 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

10582 "Automated drug dispensing system" means a mechanical or electronic system that performs
10583 operations or activities, other than compounding or administration, relating to pharmacy services,
10584 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of
10585 all transaction information, to provide security and accountability for such drugs.

10586 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood
10587 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or
10588 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic
10589 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human
10590 beings.

10591 "Biosimilar" means a biological product that is highly similar to a specific reference biological
10592 product, notwithstanding minor differences in clinically inactive compounds, such that there are no
10593 clinically meaningful differences between the reference biological product and the biological product that
10594 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of
10595 the product.

10596 "Board" means the Board of Pharmacy.

10597 "Bulk drug substance" means any substance that is represented for use, and that, when used in the
10598 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a
10599 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are
10600 used in the synthesis of such substances.

10601 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means
10602 (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns
10603 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership,
10604 or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the
10605 outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a
10606 wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting
10607 stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the
10608 merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary
10609 owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's
10610 charter.

10611 "Co-licensed partner" means a person who, with at least one other person, has the right to engage
10612 in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

10613 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into
10614 a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by
10615 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or
10616 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in
10617 expectation of receiving a valid prescription based on observed historical patterns of prescribing and
10618 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an
10619 incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course
10620 of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical
10621 analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's
10622 product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine
10623 or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner

10624 pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed
10625 nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered
10626 compounding.

10627 "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through
10628 VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those
10629 terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled
10630 substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory
10631 authority in subsection D of § 54.1-3443.

10632 "Controlled substance analog" means a substance the chemical structure of which is substantially
10633 similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a
10634 stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar
10635 to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a
10636 controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person
10637 represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous
10638 system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on
10639 the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog"
10640 does not include (a) any substance for which there is an approved new drug application as defined under
10641 § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as
10642 safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21
10643 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance
10644 for which an exemption is in effect for investigational use for that person under § 505 of the federal Food,
10645 Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such
10646 exemption; or (c) any substance to the extent not intended for human consumption before such an
10647 exemption takes effect with respect to that substance.

10648 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor
10649 agency.

10650 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated
10651 by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI
10652 prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a
10653 manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor,
10654 warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics
10655 provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

10656 "Device" means instruments, apparatus, and contrivances, including their components, parts, and
10657 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man
10658 or animals or to affect the structure or any function of the body of man or animals.

10659 "Dialysis care technician" or "dialysis patient care technician" means an individual who is certified
10660 by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1
10661 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or
10662 a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-
10663 certified renal dialysis facility.

10664 "Dialysis solution" means either the commercially available, unopened, sterile solutions whose
10665 purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal
10666 dialysis, or commercially available solutions whose purpose is to be used in the performance of
10667 hemodialysis not to include any solutions administered to the patient intravenously.

10668 "Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the
10669 lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or
10670 compounding necessary to prepare the substance for that delivery. However, dispensing shall not include
10671 the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites
10672 operated by such practitioner or that practitioner's medical practice for the purpose of administration of
10673 such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For
10674 practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a
10675 practitioner to patients to take with them away from the practitioner's place of practice.

10676 "Dispenser" means a practitioner who dispenses.

10677 "Distribute" means to deliver other than by administering or dispensing a controlled substance.

10678 "Distributor" means a person who distributes.

10679 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia
10680 National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to
10681 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or
10682 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the
10683 structure or any function of the body of man or animals; (iv) articles or substances intended for use as a
10684 component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not
10685 include devices or their components, parts, or accessories.

10686 "Drug product" means a specific drug in dosage form from a known source of manufacture,
10687 whether by brand or therapeutically equivalent drug product name.

10688 "Electronic prescription" means a written prescription that is generated on an electronic application
10689 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be
10690 transmitted in accordance with 21 C.F.R. Part 1300.

10691 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an
10692 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy
10693 form.

10694 "FDA" means the U.S. Food and Drug Administration.

10695 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by
10696 regulation designates as being the principal compound commonly used or produced primarily for use, and
10697 which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled
10698 substance, the control of which is necessary to prevent, curtail, or limit manufacture.

10699 "Interchangeable" means a biosimilar that meets safety standards for determining
10700 interchangeability pursuant to 42 U.S.C. § 262(k)(4).

10701 "Label" means a display of written, printed, or graphic matter upon the immediate container of any
10702 article. A requirement made by or under authority of this chapter that any word, statement, or other
10703 information appear on the label shall not be considered to be complied with unless such word, statement,

10704 or other information also appears on the outside container or wrapper, if any, of the retail package of such
10705 article or is easily legible through the outside container or wrapper.

10706 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its
10707 containers or wrappers, or accompanying such article.

10708 "Manufacture" means the production, preparation, propagation, conversion, or processing of any
10709 item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin,
10710 or independently by means of chemical synthesis, or by a combination of extraction and chemical
10711 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its
10712 container. This term does not include compounding.

10713 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a
10714 repackager.

10715 "Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or
10716 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its
10717 seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature
10718 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant,
10719 unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis.
10720 Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person
10721 registered pursuant to subsection A of § 3.2-4115 or his agent, (ii) industrial hemp, as defined in § 3.2-
10722 4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of
10723 Agriculture pursuant to 7 C.F.R. Part 990, ~~or~~ (iii) a hemp product, other than a regulated hemp product,
10724 as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent
10725 that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in
10726 compliance with state or federal law, or (iv) a regulated hemp product that does not exceed the maximum
10727 tetrahydrocannabinol concentration established pursuant to § 4.1-606 and that is derived from industrial
10728 hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

10729 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to
10730 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles,

10731 medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no
10732 medicinal properties that are used for the operation and cleaning of medical equipment, solutions for
10733 peritoneal dialysis, and sterile water or saline for irrigation.

10734 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction
10735 from substances of vegetable origin, or independently by means of chemical synthesis, or by a
10736 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,
10737 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof
10738 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not
10739 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and
10740 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative,
10741 or preparation thereof which is chemically equivalent or identical with any of these substances, but not
10742 including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

10743 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing
10744 a new animal drug, the composition of which is such that such drug is not generally recognized, among
10745 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as
10746 safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,
10747 except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to
10748 the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and
10749 if at such time its labeling contained the same representations concerning the conditions of its use, or (ii)
10750 any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the
10751 composition of which is such that such drug, as a result of investigations to determine its safety and
10752 effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than
10753 in such investigations, been used to a material extent or for a material time under such conditions.

10754 "Nuclear medicine technologist" means an individual who holds a current certification with the
10755 American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification
10756 Board.

10757 "Official compendium" means the official United States Pharmacopoeia National Formulary,
10758 official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

10759 "Official written order" means an order written on a form provided for that purpose by the U.S.
10760 Drug Enforcement Administration, under any laws of the United States making provision therefor, if such
10761 order forms are authorized and required by federal law, and if no such order form is provided then on an
10762 official form provided for that purpose by the Board of Pharmacy.

10763 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability
10764 similar to morphine or being capable of conversion into a drug having such addiction-forming or
10765 addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article
10766 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
10767 (dextromethorphan). It does include its racemic and levorotatory forms.

10768 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

10769 "Original package" means the unbroken container or wrapping in which any drug or medicine is
10770 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for
10771 use in the delivery or display of such article.

10772 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is
10773 currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and
10774 that complies with all applicable requirements of federal and state law, including the Federal Food, Drug,
10775 and Cosmetic Act.

10776 "Person" means both the plural and singular, as the case demands, and includes an individual,
10777 partnership, corporation, association, governmental agency, trust, or other institution or entity.

10778 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the
10779 application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant
10780 pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale
10781 and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the
10782 pharmacy and the pharmacy's personnel as required by § 54.1-3432.

10783 "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

10784 "Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01,
10785 licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified
10786 optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator,
10787 or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and
10788 administer, or conduct research with respect to a controlled substance in the course of professional practice
10789 or research in the Commonwealth.

10790 "Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to
10791 issue a prescription.

10792 "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by
10793 word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed
10794 physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such
10795 drugs or medical supplies.

10796 "Prescription drug" means any drug required by federal law or regulation to be dispensed only
10797 pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of
10798 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

10799 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting
10800 of a controlled substance or marijuana.

10801 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,
10802 original package which does not contain any controlled substance or marijuana as defined in this chapter
10803 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general
10804 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name,
10805 or other trade symbol privately owned, and the labeling of which conforms to the requirements of this
10806 chapter and applicable federal law. However, this definition shall not include a drug that is only advertised
10807 or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that
10808 may be dispensed only upon prescription or the label of which bears substantially the statement "Warning
10809 — may be habit-forming," or a drug intended for injection.

10810 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei
10811 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or
10812 radionuclide generator that is intended to be used in the preparation of any such substance, but does not
10813 include drugs such as carbon-containing compounds or potassium-containing salts that include trace
10814 quantities of naturally occurring radionuclides. The term also includes any biological product that is
10815 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

10816 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.
10817 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and
10818 Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42
10819 U.S.C. § 262(k).

10820 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any
10821 person, whether as an individual, proprietor, agent, servant, or employee.

10822 "Therapeutically equivalent drug products" means drug products that contain the same active
10823 ingredients and are identical in strength or concentration, dosage form, and route of administration and
10824 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant
10825 to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the
10826 Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange
10827 Book."

10828 "Third-party logistics provider" means a person that provides or coordinates warehousing of or
10829 other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale
10830 distributor, or dispenser of the drug or device but does not take ownership of the product or have
10831 responsibility for directing the sale or disposition of the product.

10832 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

10833 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party
10834 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or
10835 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription

10836 devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state
10837 or local tax by reason of this definition.

10838 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than
10839 consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or
10840 consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain
10841 Security Act.

10842 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed
10843 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

10844 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter
10845 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses
10846 or lenses for the eyes.

10847 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be
10848 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

10849 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

10850 A. As used in this section:

10851 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same
10852 parts of the same chemovar of cannabis plant.

10853 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include ~~oil~~
10854 ~~from~~ industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a
10855 dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or
10856 tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol
10857 per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt,
10858 or processed in compliance with state or federal law, unless it has been acquired and formulated with
10859 cannabis plant extract by a pharmaceutical processor.

10860 "Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered
10861 with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical
10862 cannabis.

10863 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-
10864 162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home
10865 health services, private provider licensed by the Department of Behavioral Health and Developmental
10866 Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility
10867 licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

10868 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine,
10869 a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the
10870 Board of Medicine and the Board of Nursing.

10871 "Registered agent" means an individual designated by a patient who has been issued a written
10872 certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated
10873 by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

10874 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has
10875 been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber
10876 produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation
10877 of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

10878 B. A practitioner in the course of his professional practice may issue a written certification for the
10879 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
10880 determined by the practitioner to benefit from such use. The practitioner shall use his professional
10881 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
10882 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-
10883 time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of
10884 care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such
10885 dispensing. If not specifically included on the initial written certification, authorization for botanical
10886 cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

10887 C. The written certification shall be on a form provided by the Office of the Executive Secretary
10888 of the Supreme Court developed in consultation with the Board of Medicine. Such written certification
10889 shall contain the name, address, and telephone number of the practitioner, the name and address of the

10890 patient issued the written certification, the date on which the written certification was made, and the
10891 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to
10892 subsection B shall expire no later than one year after its issuance unless the practitioner provides in such
10893 written certification an earlier expiration.

10894 D. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-
10895 ~~248 or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the treatment or
10896 to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification
10897 issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from
10898 sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise
10899 violating the applicable standard of care for evaluating or treating medical conditions.

10900 E. A practitioner who issues a written certification to a patient pursuant to this section shall register
10901 with the Board and shall hold sufficient education and training to exercise appropriate professional
10902 judgment in the certification of patients. The Board shall not limit the number of patients to whom a
10903 practitioner may issue a written certification. The Board may report information to the applicable licensing
10904 board on unusual patterns of certifications issued by a practitioner.

10905 F. A patient who has been issued a written certification shall register with the Board or, if such
10906 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian
10907 shall register and shall register such patient with the Board. No patient shall be required to physically
10908 present the written certification after the initial dispensing by any pharmaceutical processor or cannabis
10909 dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis
10910 dispensing facility maintains an electronic copy of the written certification.

10911 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
10912 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
10913 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
10914 register with the Board. The Board may set a limit on the number of patients for whom any individual is
10915 authorized to act as a registered agent.

10916 H. Upon delivery of cannabis oil by a pharmaceutical processor or cannabis dispensing facility to
10917 a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is
10918 licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
10919 administer medications, may accept delivery of the cannabis oil on behalf of a patient or resident for
10920 subsequent delivery to the patient or resident and may assist in the administration of the cannabis oil to
10921 the patient or resident as necessary.

10922 I. The Board shall promulgate regulations to implement the registration process. Such regulations
10923 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,
10924 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an
10925 incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for
10926 ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a
10927 prohibition for the patient to be issued a written certification by more than one practitioner during any
10928 given time period.

10929 J. Information obtained under the registration process shall be confidential and shall not be subject
10930 to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
10931 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
10932 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
10933 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific
10934 violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing
10935 patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv)
10936 a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient,
10937 or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as
10938 defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related
10939 to such registered patient.

10940 **§ 54.1-3442.8. Criminal liability; exceptions.**

10941 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
10942 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248-1~~, or 18.2-250 for

10943 possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis
10944 products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action
10945 by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana
10946 for the purposes of producing cannabis products in accordance with the provisions of this article and Board
10947 regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with
10948 generally accepted cannabis industry standards in accordance with the provisions of this article and Board
10949 regulations.

10950 **§ 54.1-3446. Schedule I.**

10951 The controlled substances listed in this section are included in Schedule I:

10952 1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers,
10953 esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and
10954 salts is possible within the specific chemical designation:

10955 1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-
10956 237);

10957 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

10958 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

10959 2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl
10960 fentanyl);

10961 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

10962 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);

10963 Acetyl fentanyl (other name: desmethyl fentanyl);

10964 Acetylmethadol;

10965 Allylprodine;

10966 Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol,
10967 levomethadyl acetate, or LAAM);

10968 Alphameprodine;

10969 Alphamethadol;

10970	Benzethidine;
10971	Betacetylmethadol;
10972	Betameprodine;
10973	Betamethadol;
10974	Betaprodine;
10975	Clonitazene;
10976	Dextromoramide;
10977	Diampromide;
10978	Diethylthiambutene;
10979	Difenoxin;
10980	Dimenoxadol;
10981	Dimepheptanol;
10982	Dimethylthiambutene;
10983	Dioxaphetylbutyrate;
10984	Dipipanone;
10985	Ethylmethylthiambutene;
10986	Etonitazene;
10987	Etoxidine;
10988	Furethidine;
10989	Hydroxypethidine;
10990	Ketobemidone;
10991	Levomoramide;
10992	Levophenacymorphan;
10993	Morpheridine;
10994	MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
10995	N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl
10996	fentanyl);

- 10997** N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name:
10998 Tetrahydrofuran-2-yl fentanyl);
- 10999** N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-
11000 methylthiofentanyl);
- 11001** N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-
11002 methylfentanyl);
- 11003** N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-
11004 hydroxythiofentanyl);
- 11005** N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-
11006 hydroxyfentanyl);
- 11007** N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-
11008 phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
- 11009** N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-
11010 fluorofentanyl, ortho-fluorofentanyl);
- 11011** N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-
11012 fluorofentanyl);
- 11013** N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-
11014 hydroxy-3-methylfentanyl);
- 11015** N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-
11016 methylfentanyl);
- 11017** N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-
11018 methylthiofentanyl);
- 11019** N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name:
11020 para-fluoroisobutyryl fentanyl);
- 11021** N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-
11022 fluorobutyrylfentanyl);

- 11023** N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-
11024 fluorofentanyl);
- 11025** N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other
11026 name: Isotonitazene);
- 11027** N-phenyl-N-[1-(2-phenylmethyl)-4-piperidinyl]-2-furancarboxamide (other name: N-benzyl
11028 Furanyl norfentanyl);
- 11029** N-phenyl-N-(4-piperidinyl)-propanamide (other name: Norfentanyl);
- 11030** Noracymethadol;
- 11031** Norlevorphanol;
- 11032** Normethadone;
- 11033** Norpipanone;
- 11034** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl
11035 fentanyl);
- 11036** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
- 11037** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
- 11038** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
- 11039** N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);
- 11040** Phenadoxone;
- 11041** Phenampromide;
- 11042** Phenomorphan;
- 11043** Phenoperidine;
- 11044** Piritramide;
- 11045** Proheptazine;
- 11046** Properidine;
- 11047** Propiram;
- 11048** Racemoramide;
- 11049** Tilidine;

- 11050** Trimeperidine;
- 11051** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name:
- 11052** Benzodioxole fentanyl);
- 11053** 3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
- 11054** 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-
- 11055** 48800);
- 11056** 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-
- 11057** 51754);
- 11058** N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name:
- 11059** Ocfentanil);
- 11060** N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-
- 11061** methoxybutyrylfentanyl);
- 11062** N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl
- 11063** fentanyl);
- 11064** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name:
- 11065** Cyclopentyl fentanyl);
- 11066** N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
- 11067** N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-
- 11068** methylenedioxy U-47700 or 3,4-MDO-U-47700);
- 11069** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
- 11070** N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-
- 11071** phenylfentanyl);
- 11072** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl
- 11073** fentanyl);
- 11074** N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
- 11075** N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);

11076 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl
11077 U-47700).

11078 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless
11079 specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within
11080 the specific chemical designation:

11081 Acetorphine;

11082 Acetyldihydrocodeine;

11083 Benzylmorphine;

11084 Codeine methylbromide;

11085 Codeine-N-Oxide;

11086 Cyprenorphine;

11087 Desomorphine;

11088 Dihydromorphine;

11089 Drotebanol;

11090 Etorphine;

11091 Heroin;

11092 Hydromorphenol;

11093 Methyldesorphine;

11094 Methyldihydromorphine;

11095 Morphine methylbromide;

11096 Morphine methylsulfonate;

11097 Morphine-N-Oxide;

11098 Myrophine;

11099 Nicocodeine;

11100 Nicomorphine;

11101 Normorphine;

11102 Pholcodine;

- 11103** Thebacon.
- 11104** 3. Unless specifically excepted or unless listed in another schedule, any material, compound,
11105 mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which
11106 contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and
11107 salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only,
11108 the term "isomer" includes the optical, position, and geometric isomers):
- 11109** Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-
11110 2-aminobutyl] indole; a-ET; AET);
- 11111** 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-
11112 dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);
- 11113** 3,4-methylenedioxy amphetamine;
- 11114** 5-methoxy-3,4-methylenedioxy amphetamine;
- 11115** 3,4,5-trimethoxy amphetamine;
- 11116** Alpha-methyltryptamine (other name: AMT);
- 11117** Bufotenine;
- 11118** Diethyltryptamine;
- 11119** Dimethyltryptamine;
- 11120** 4-methyl-2,5-dimethoxyamphetamine;
- 11121** 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 11122** 4-fluoro-N-ethylamphetamine;
- 11123** 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
- 11124** Ibogaine;
- 11125** 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
- 11126** Lysergic acid diethylamide;
- 11127** Mescaline;
- 11128** Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-
11129 6H-dibenzo [b,d] pyran; Synhexyl);

11130 Peyote;

11131 N-ethyl-3-piperidyl benzilate;

11132 N-methyl-3-piperidyl benzilate;

11133 Psilocybin;

11134 Psilocyn;

11135 Salvinorin A;

11136 Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is
 11137 possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product,
 11138 other than a regulated hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol
 11139 concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112,
 11140 that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; (iv) dronabinol
 11141 in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and
 11142 Drug Administration; ~~or~~ (v) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who
 11143 holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part
 11144 990; or (vi) a regulated hemp product that does not exceed the maximum tetrahydrocannabinol
 11145 concentration established pursuant to § 4.1-606 and that is derived from industrial hemp, as defined in §
 11146 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law;

11147 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
 11148 2,5-DMA);

11149 3,4-methylenedioxyamphetamine (MDMA), its optical, positional and geometric isomers,
 11150 salts and salts of isomers;

11151 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
 11152 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

11153 N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-
 11154 3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

11155 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-
 11156 methylphenethylamine; 4-bromo-2,5-DMA);

- 11157** 4-methoxyamphetamine (some trade or other names: 4-methoxy- α -methylphenethylamine;
11158 paramethoxyamphetamine; PMA);
- 11159** Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-
11160 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
- 11161** Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine,
11162 PCPy, PHP);
- 11163** Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine,
11164 2-thienyl analog of phencyclidine, TPCP, TCP);
- 11165** 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
- 11166** 3,4-methylenedioxypropylvalerone (other name: MDPV);
- 11167** 4-methylmethcathinone (other names: mephedrone, 4-MMC);
- 11168** 3,4-methylenedioxyethcathinone (other name: methylone);
- 11169** Naphthylpropylvalerone (other name: naphyrone);
- 11170** 4-fluoromethcathinone (other names: flephedrone, 4-FMC);
- 11171** 4-methoxymethcathinone (other names: methedrone; bk-PMMA);
- 11172** Ethcathinone (other name: N-ethylcathinone);
- 11173** 3,4-methylenedioxyethcathinone (other name: ethylone);
- 11174** Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
- 11175** N,N-dimethylcathinone (other name: metamfepramone);
- 11176** Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
- 11177** 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
- 11178** 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
- 11179** Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
- 11180** 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
- 11181** 3-fluoromethcathinone (other name: 3-FMC);
- 11182** 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
- 11183** 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

- 11184 4-Methylethcathinone (other name: 4-MEC);
- 11185 4-Ethylmethcathinone (other name: 4-EMC);
- 11186 N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
- 11187 Beta-keto-methylbenzodioxolypentanamine (other names: Pentylone, bk-MBDP);
- 11188 Alpha-methylamino-butyrophenone (other name: Buphedrone);
- 11189 Alpha-methylamino-valerophenone (other name: Pentedrone);
- 11190 3,4-Dimethylmethcathinone (other name: 3.4-DMMC);
- 11191 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
- 11192 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I,
- 11193 25I-NBOMe, 2C-I-NBOMe);
- 11194 Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
- 11195 4-Fluoromethamphetamine (other name: 4-FMA);
- 11196 4-Fluoroamphetamine (other name: 4-FA);
- 11197 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
- 11198 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
- 11199 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
- 11200 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
- 11201 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
- 11202 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
- 11203 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
- 11204 (2-aminopropyl)benzofuran (other name: APB);
- 11205 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
- 11206 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-
- 11207 NBOMe, 25C-NBOMe, 25C);
- 11208 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-
- 11209 NBOMe, 25B-NBOMe, 25B);
- 11210 Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);

- 11211 Benocyclidine (other names: BCP, BTCP);
- 11212 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
- 11213 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
- 11214 4-bromomethcathinone (other name: 4-BMC);
- 11215 4-chloromethcathinone (other name: 4-CMC);
- 11216 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-
11217 NBOH);
- 11218 Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
- 11219 Alpha-Pyrrolidinoheptiophenone (other name: PV8);
- 11220 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
- 11221 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
- 11222 Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
- 11223 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
- 11224 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
- 11225 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
- 11226 4-Chloroethcathinone (other name: 4-CEC);
- 11227 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
- 11228 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
- 11229 (2-Methylaminopropyl)benzofuran (other name: MAPB);
- 11230 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone,
11231 Dipentylone);
- 11232 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
- 11233 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
- 11234 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
- 11235 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-
11236 NBOH);
- 11237 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);

- 11238 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
- 11239 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
- 11240 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
- 11241 4-methyl-alpha-ethylaminopentiophenone;
- 11242 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
- 11243 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
- 11244 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
- 11245 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
- 11246 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
- 11247 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
- 11248 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
- 11249 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
- 11250 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
- 11251 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
- 11252 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
- 11253 4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
- 11254 N-ethyl-1,2-diphenylethylamine (other name: Ephedrine);
- 11255 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
- 11256 3,4-methylenedioxy-N-tert-butylcathinone;
- 11257 Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
- 11258 1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
- 11259 4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
- 11260 4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
- 11261 3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
- 11262 5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
- 11263 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
- 11264 1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);

- 11265 N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
- 11266 1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl
11267 Pentylone);
- 11268 1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
- 11269 2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
- 11270 (2-ethylaminopropyl)benzofuran (other name: EAPB);
- 11271 4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-
11272 NBOH);
- 11273 2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
- 11274 4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
- 11275 2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-
11276 isobutylaminohexanphenone);
- 11277 1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine,
11278 PMMA);
- 11279 N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
- 11280 N-heptyl-3,4-dimethoxyamphetamine (other names: N-heptyl-3,4-DMA);
- 11281 N-hexyl-3,4-dimethoxyamphetamine (other names: N-hexyl-3,4-DMA).
- 11282 4. Unless specifically excepted or unless listed in another schedule, any material, compound,
11283 mixture or preparation which contains any quantity of the following substances having a depressant effect
11284 on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of
11285 such salts, isomers and salts of isomers is possible within the specific chemical designation:
- 11286 Clonazolam;
- 11287 Etizolam;
- 11288 Flualprazolam;
- 11289 Flubromazepam;
- 11290 Flubromazolam;

- 11291** Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-
11292 hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- 11293** Mecloqualone;
- 11294** Methaqualone.
- 11295** 5. Unless specifically excepted or unless listed in another schedule, any material, compound,
11296 mixture or preparation which contains any quantity of the following substances having a stimulant effect
11297 on the central nervous system, including its salts, isomers and salts of isomers:
- 11298** 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
- 11299** Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-
11300 5-phenyl-2-oxazolamine);
- 11301** Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-
11302 aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which
11303 Cathinone may be derived;
- 11304** Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 11305** Ethylamphetamine;
- 11306** Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);
- 11307** Fenethylamine;
- 11308** Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)-
11309 propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropionophenone;
11310 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and
11311 UR 1432);
- 11312** N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
- 11313** N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-
11314 trimethylphenethylamine);
- 11315** Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);
- 11316** Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);
- 11317** 4-chloro-N,N-dimethylcathinone;

- 11318 3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).
- 11319 6. Any substance that contains one or more cannabimimetic agents or that contains their salts,
11320 isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible
11321 within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed
11322 or infused with, any detectable amount of one or more cannabimimetic agents.
- 11323 a. "Cannabimimetic agents" includes any substance that is within any of the following structural
11324 classes:
- 11325 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or
11326 alkenyl, whether or not substituted on the cyclohexyl ring to any extent;
- 11327 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen
11328 atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not
11329 substituted on the naphthoyl or naphthyl ring to any extent;
- 11330 3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not
11331 further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to
11332 any extent;
- 11333 1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not
11334 further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any
11335 extent;
- 11336 3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring,
11337 whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl
11338 ring to any extent;
- 11339 3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not
11340 further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to
11341 any extent;
- 11342 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
11343 substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

11344 N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring,
11345 whether or not further substituted on the indole ring to any extent, whether or not substituted on the
11346 adamantyl ring to any extent; and

11347 N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring,
11348 whether or not further substituted on the indazole ring to any extent, whether or not substituted on the
11349 adamantyl ring to any extent.

11350 b. The term "cannabimimetic agents" includes:

11351 5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

11352 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

11353 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

11354 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

11355 1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

11356 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

11357 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

11358 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

11359 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

11360 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet

11361 rahydrobenzo[c]chromen-1-ol (other name: HU-210);

11362 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

11363 1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

11364 1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

11365 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

11366 1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

11367 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

11368 1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

11369 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

11370 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

- 11371** Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone
- 11372** (other name: WIN 48,098);
- 11373** 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
- 11374** 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
- 11375** 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
- 11376** 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-
- 11377** fluoro-UR-144);
- 11378** N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
- 11379** N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
- 11380** 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
- 11381** (8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
- 11382** (8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
- 11383** (8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
- 11384** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-
- 11385** PINACA);
- 11386** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name:
- 11387** AB-FUBINACA);
- 11388** 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
- 11389** N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-
- 11390** PINACA);
- 11391** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other
- 11392** name: AB-CHMINACA);
- 11393** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
- 11394** 5-fluoro-AB-PINACA);
- 11395** N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other
- 11396** names: ADB-CHMINACA, MAB-CHMINACA);

- 11397** Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-
- 11398** fluoro-AMB);
- 11399** 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
- 11400** 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
- 11401** 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
- 11402** N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole- 3-
- 11403** carboxamide (other name: ADB-FUBINACA);
- 11404** Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-di methylbutanoate
- 11405** (other name: MDMB-FUBINACA);
- 11406** Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names:
- 11407** 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
- 11408** Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoat e
- 11409** (other names: AMB-FUBINACA, FUB-AMB);
- 11410** N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);
- 11411** N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
- 11412** N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
- 11413** Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
- 11414** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name:
- 11415** AB-CHMICA);
- 11416** 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
- 11417** Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
- 11418** Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
- 11419** N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamid e (other
- 11420** name: 5-fluoro-ADB-PINACA);
- 11421** 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano
- 11422** CUMYL-BUTINACA);

- 11423 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-
11424 Fluoro-MDMB-PICA);
- 11425 Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl} amino)-3-methylbutanoate (other
11426 name: EMB-FUBINACA);
- 11427 Methyl 2-[1-(4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-
11428 fluoro-MDMB-BUTINACA);
- 11429 1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro
11430 CUMYL-PICA);
- 11431 Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:
11432 MDMB-4en-PINACA);
- 11433 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl} amino)-3-methylbutanoate (other
11434 names: MMB-FUBICA, AMB-FUBICA);
- 11435 Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names:
11436 MMB022, MMB-4en-PICA);
- 11437 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB
11438 2201);
- 11439 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name: 5-
11440 fluoro-MPP-PICA);
- 11441 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name: ADB-
11442 BUTINACA);
- 11443 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name:
11444 5-chloro-AB-PINACA).
- 11445 **§ 58.1-3. Secrecy of information; penalties.**
- 11446 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
11447 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
11448 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
11449 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall

11450 not divulge any information acquired by him in the performance of his duties with respect to the
11451 transactions, property, including personal property, income or business of any person, firm or corporation.
11452 Such prohibition specifically includes any copy of a federal return or federal return information required
11453 by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any
11454 reports, returns, financial documents or other information filed with the Attorney General pursuant to the
11455 provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions
11456 of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable,
11457 however, to:

- 11458 1. Matters required by law to be entered on any public assessment roll or book;
- 11459 2. Acts performed or words spoken, published, or shared with another agency or subdivision of
11460 the Commonwealth in the line of duty under state law;
- 11461 3. Inquiries and investigations to obtain information as to the process of real estate assessments by
11462 a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant
11463 to its study, provided that any such information obtained shall be privileged;
- 11464 4. The sales price, date of construction, physical dimensions or characteristics of real property, or
11465 any information required for building permits;
- 11466 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
11467 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or
11468 by the commissioner of accounts making a settlement of accounts filed in such estate;
- 11469 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11,
11470 when requested by the General Assembly or any duly constituted committee of the General Assembly;
- 11471 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
11472 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney
11473 General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant
11474 to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory
11475 established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any
11476 year in which the Attorney General receives Stamping Agent information that potentially alters the

11477 required escrow deposit of the manufacturer. The information shall only be provided in the following
11478 manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the
11479 manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow
11480 deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its
11481 products and the amount reported. The Attorney General shall provide the list within 15 days of receipt
11482 of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed
11483 with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C
11484 of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the
11485 manufacturer may make a written request to the Attorney General, including a copy of the prior written
11486 request to the Stamping Agent and any response received, for copies of any reports not received. The
11487 Attorney General shall provide copies of the reports within 45 days of receipt of the request.

11488 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics
11489 so classified as to prevent the identification of particular reports or returns and the items thereof or the
11490 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with
11491 any relevant information which in the opinion of the Department may assist in the collection of such
11492 delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon
11493 request by the General Assembly or any duly constituted committee of the General Assembly, shall
11494 disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless
11495 of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall
11496 not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is
11497 licensed to do business in that locality and divulging, upon written request, the name and address of any
11498 person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding
11499 any other provision of law, the commissioner of revenue is authorized to provide, upon written request
11500 stating the reason for such request, the Tax Commissioner with information obtained from local tax returns
11501 and other information pertaining to the income, sales and property of any person, firm or corporation
11502 licensed to do business in that locality.

11503 2. This section shall not prohibit the Department from disclosing whether a person, firm, or
11504 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or
11505 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding
11506 any other provision of law, the Department is hereby authorized to make available the names and
11507 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

11508 3. This section shall not prohibit the Department from disclosing information to nongovernmental
11509 entities with which the Department has entered into a contract to provide services that assist it in the
11510 administration of refund processing or other services related to its administration of taxes.

11511 4. This section shall not prohibit the Department from disclosing information to taxpayers
11512 regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of
11513 such taxpayer submitted withholding records to the Department for a specific taxable year as required
11514 pursuant to subdivision C 1 of § 58.1-478.

11515 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance,
11516 or other similar local official who collects or administers taxes for a county, city, or town from disclosing
11517 information to nongovernmental entities with which the locality has entered into a contract to provide
11518 services that assist it in the administration of refund processing or other non-audit services related to its
11519 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
11520 local official who collects or administers taxes for a county, city, or town shall not disclose information
11521 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
11522 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such
11523 entity agrees to abide by such obligations.

11524 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
11525 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
11526 of finance, or other similar collector of county, city, or town taxes who, for the performance of his official
11527 duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
11528 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
11529 of income, filing status, number and type of dependents, whether a federal earned income tax credit as

11530 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as
11531 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of
11532 public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to
11533 Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of
11534 outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal
11535 Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide
11536 to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia,
11537 upon written request, the names and home addresses of those persons identified by the designated
11538 guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address
11539 information upon request to state agencies and institutions for their confidential use in facilitating the
11540 collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in
11541 facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide
11542 to the Commissioner of the Virginia Employment Commission, after entering into a written agreement,
11543 such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
11544 benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
11545 Control Authority, upon entering into a written agreement, such tax information as may be necessary to
11546 facilitate the collection of state and local taxes and the administration of the alcoholic beverage or cannabis
11547 control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary
11548 to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the
11549 Treasury for its confidential use such tax information as may be necessary to facilitate the location of
11550 owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation
11551 Commission, upon entering into a written agreement, such tax information as may be necessary to
11552 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
11553 Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax
11554 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide
11555 to the Commissioner of the Department of Agriculture and Consumer Services such tax information as
11556 may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies

11557 who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of
11558 Housing and Community Development for its confidential use such tax information as may be necessary
11559 to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-
11560 270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and
11561 address information to private collectors entering into a written agreement with the Tax Commissioner,
11562 for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions;
11563 however, the Tax Commissioner is not authorized to provide such information to a private collector who
11564 has used or disseminated in an unauthorized or prohibited manner any such information previously
11565 provided to such collector; (xiv) provide current name and address information as to the identity of the
11566 wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who
11567 manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other
11568 equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes
11569 Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement,
11570 such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29;
11571 (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a
11572 written agreement, such tax information as may be necessary to identify persons receiving workers'
11573 compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii)
11574 provide to any commissioner of the revenue, director of finance, or any other officer of any county, city,
11575 or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered
11576 for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and
11577 dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the
11578 Northern Virginia Transportation Commission for his confidential use such tax information as may be
11579 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner
11580 of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the
11581 Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and
11582 Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development
11583 authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax

11584 information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System
11585 and the Department of Human Resource Management, after entering into a written agreement, such tax
11586 information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii)
11587 provide to the Department of Medical Assistance Services and the Department of Social Services, upon
11588 entering into a written agreement, the name, address, social security number, email address, dependent
11589 information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal
11590 exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided
11591 by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or
11592 spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure
11593 for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide
11594 to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an
11595 applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification
11596 privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in §
11597 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth
11598 within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon
11599 entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as
11600 practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the
11601 name, address, social security number, email address, dependent information provided pursuant to
11602 subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross
11603 income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to
11604 subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly,
11605 who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the
11606 income eligibility requirements for medical assistance and would like to newly enroll in a qualified health
11607 plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted
11608 tax officials of other states and of the United States for the inspection of tax returns, the making of audits,
11609 and the exchange of information relating to any tax administered by the Department of Taxation. Any

11610 person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions
11611 and penalties prescribed herein as though he were a tax official.

11612 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
11613 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
11614 stating the reason for such request, the chief executive officer of any county or city with information
11615 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
11616 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
11617 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
11618 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
11619 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
11620 profession or occupation administered by the Department of Professional and Occupational Regulation,
11621 only after the Department of Professional and Occupational Regulation exhausts all other means of
11622 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
11623 association, property owners' association or real estate cooperative association, or to the owner of property
11624 governed by any such association, the names and addresses of parties having a security interest in real
11625 property governed by any such association; however, such information shall be released only upon written
11626 request stating the reason for such request, which reason shall be limited to proposing or opposing changes
11627 to the governing documents of the association, and any information received by any person under this
11628 subsection shall be used only for the reason stated in the written request. The treasurer or other local
11629 assessing official may require any person requesting information pursuant to clause (iii) of this subsection
11630 to pay the reasonable cost of providing such information. Any person to whom tax information is divulged
11631 pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though
11632 he were a tax official.

11633 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
11634 treasurer or other collector of taxes for a county, city or town is authorized to provide information relating
11635 to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of

11636 performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction
11637 for use by such commissioner or other official in performing assessments.

11638 This section shall not be construed to prohibit a local tax official from imprinting or displaying on
11639 a motor vehicle local license decal the year, make, and model and any other legal identification
11640 information about the particular motor vehicle for which that local license decal is assigned.

11641 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
11642 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
11643 written request, the name, address, and social security number of a taxpayer, necessary for the performance
11644 of the Commissioner's official duties regarding the administration and enforcement of laws within the
11645 jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his
11646 agent that may be deemed taxpayer information shall not relieve the Commissioner of the obligations
11647 under this section.

11648 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
11649 confidential tax document that he knows or has reason to know is a confidential tax document. A
11650 confidential tax document is any correspondence, document, or tax return that is prohibited from being
11651 divulged by subsection A, B, C, or D and includes any document containing information on the
11652 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
11653 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
11654 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
11655 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

11656 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

11657 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic
11658 Beverage Control Authority, the Virginia Cannabis Control Authority, the Virginia Lottery, the Marine
11659 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the
11660 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department
11661 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire
11662 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any

11663 law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus
11664 police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or
11665 after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations
11666 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires
11667 (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred
11668 disability or who is receiving long-term disability payments for a service-incurred disability with no
11669 expectation of returning to the employment where he incurred the disability to purchase the service
11670 handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously
11671 issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This
11672 privilege shall also extend to any former Superintendent of the Department of State Police who leaves
11673 service after a minimum of five years. This privilege shall also extend to any person listed in this
11674 subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1,
11675 1991, in good standing from one of the agencies listed in this section to accept a position covered by the
11676 Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal
11677 duty use of an officer may, with approval of the agency head, be sold to the officer subject to the
11678 qualifications of this section at a fair market price determined as in subsection B, so long as the weapon
11679 is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private
11680 citizen without restrictions other than the instant background check.

11681 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
11682 who retires with five or more years of service, but less than 10, to purchase the service handgun issued to
11683 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
11684 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
11685 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
11686 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the
11687 date of the officer's retirement. Determinations of fair market value may be made by reference to a
11688 recognized pricing guide.

11689 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
11690 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10
11691 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

11692 D. The governing board of any institution of higher-learning education named in § 23.1-1100 may
11693 allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
11694 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price
11695 equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair
11696 market value may be made by reference to a recognized pricing guide.

11697 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with
11698 a state agency listed in subsection A, when the agency allows purchases of service handguns, and who
11699 retires after 10 years of state service, even if a portion of his service was with another state agency, may
11700 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

11701 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
11702 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to
11703 him.

11704 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with
11705 more than 10 years of service to purchase the service handgun issued to him by the agency at a price that
11706 is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

11707 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
11708 currently employed by the agency to purchase his service handgun, with the approval of the chief law-
11709 enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency
11710 has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used
11711 by the agency or officer in the course of duty.

11712 **§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and**
11713 **firefighters.**

11714 A. As used in this section:

11715 "Firefighter" means any (i) salaried firefighter, including special forest wardens designated
11716 pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator
11717 and (ii) volunteer firefighter and volunteer emergency medical services personnel.

11718 "In the line of duty" means any action that a law-enforcement officer or firefighter was obligated
11719 or authorized to perform by rule, regulation, written condition of employment service, or law.

11720 "Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System;
11721 (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of
11722 Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City
11723 of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn
11724 member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer;
11725 (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of
11726 Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority
11727 appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the
11728 Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as
11729 provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan
11730 Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk
11731 Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port
11732 Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
11733 Title 23.1 and employed by any public institution of higher education.

11734 "Mental health professional" means a board-certified psychiatrist or a psychologist licensed
11735 pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

11736 "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-
11737 traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's
11738 Diagnostic and Statistical Manual of Mental Disorders.

11739 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1,
11740 2020:

- 11741 1. Resulting in serious bodily injury or death to any person or persons;

11742 2. Involving a minor who has been injured, killed, abused, or exploited;

11743 3. Involving an immediate threat to life of the claimant or another individual;

11744 4. Involving mass casualties; or

11745 5. Responding to crime scenes for investigation.

11746 B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is
11747 compensable under this title if:

11748 1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses
11749 the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the
11750 individual's undergoing a qualifying event;

11751 2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's
11752 acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal
11753 Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R.
11754 1910.156;

11755 3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial
11756 factor in causing his post-traumatic stress disorder;

11757 4. Such qualifying event, and not another event or source of stress, was the primary cause of the
11758 post-traumatic stress disorder; and

11759 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation,
11760 job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-
11761 enforcement officer or firefighter.

11762 Any such mental health professional shall comply with any workers' compensation guidelines for
11763 approved medical providers, including guidelines on release of past or contemporaneous medical records.

11764 C. Notwithstanding any provision of this title, workers' compensation benefits for any law-
11765 enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of
11766 medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total
11767 incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii)
11768 be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary

11769 total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall
11770 be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for
11771 benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter
11772 pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and
11773 noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term
11774 disability plan, but not including payments for medical care, shall not exceed the average weekly wage
11775 paid to such law-enforcement officer or firefighter.

11776 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall
11777 (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-
11778 enforcement officer or firefighter seeking mental health care services to a mental health professional.

11779 E. Each fire basic training program conducted or administered by the Department of Fire Programs
11780 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department
11781 of Behavioral Health and Developmental Services, resilience and self-care technique training for any
11782 individual who begins basic training as a firefighter on or after July 1, 2021.

11783 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or**
11784 **heart disease, cancer.**

11785 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department
11786 of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such
11787 firefighters or Department of Emergency Management hazardous materials officers resulting in total or
11788 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are
11789 covered by this title unless such presumption is overcome by a preponderance of competent evidence to
11790 the contrary.

11791 B. Hypertension or heart disease causing the death of, or any health condition or impairment
11792 resulting in total or partial disability of any of the following persons who have completed five years of
11793 service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers'
11794 Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy
11795 sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or

11796 deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation
11797 police officers who are full-time sworn members of the enforcement division of the Department of
11798 Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage
11799 Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special
11800 agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600
11801 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily
11802 subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force
11803 established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police
11804 force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force
11805 established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under
11806 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
11807 education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1,
11808 when such emergency medical services personnel is operating in a locality that has legally adopted a
11809 resolution declaring that it will provide one or more of the presumptions under this subsection, shall be
11810 presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such
11811 presumption is overcome by a preponderance of competent evidence to the contrary.

11812 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer
11813 causing the death of, or any health condition or impairment resulting in total or partial disability of, any
11814 volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer,
11815 commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of
11816 State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles
11817 having completed five years of service shall be presumed to be an occupational disease, suffered in the
11818 line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of
11819 competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply
11820 for any individual who was diagnosed with such a condition before July 1, 2020.

11821 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to
11822 invoke them have, if requested by the private employer, appointing authority or governing body

11823 employing them, undergone preemployment physical examinations that (i) were conducted prior to the
11824 making of any claims under this title that rely on such presumptions, (ii) were performed by physicians
11825 whose qualifications are as prescribed by the private employer, appointing authority or governing body
11826 employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the
11827 private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such
11828 persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

11829 E. Persons making claims under this title who rely on such presumptions shall, upon the request
11830 of private employers, appointing authorities or governing bodies employing such persons, submit to
11831 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their
11832 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
11833 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election
11834 of such claimant, be present at such examination.

11835 F. Whenever a claim for death benefits is made under this title and the presumptions of this section
11836 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private
11837 employer, appointing authority or governing body that had employed the deceased, submit the body of
11838 the deceased to a postmortem examination as may be directed by the Commission. A qualified physician,
11839 selected and compensated by the person entitled to make the claim, may, at the election of such claimant,
11840 be present at such postmortem examination.

11841 G. Volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and
11842 reserve police are not included within the coverage of this section.

11843 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant
11844 to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to
11845 perform firefighting services.

11846 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

11847 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health
11848 condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter,
11849 or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers'

11850 Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff;
11851 (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city
11852 sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer
11853 who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources;
11854 (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority
11855 appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia
11856 Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1;
11857 (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the
11858 provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained
11859 by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and
11860 maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of
11861 Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force
11862 established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under
11863 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
11864 education; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the
11865 enforcement division of the Department of Motor Vehicles who has a documented occupational exposure
11866 to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government
11867 duty, that are covered by this title unless such presumption is overcome by a preponderance of competent
11868 evidence to the contrary. For purposes of this subsection, an occupational exposure occurring on or after
11869 July 1, 2002, shall be deemed "documented" if the person covered under this subsection gave notice,
11870 written or otherwise, of the occupational exposure to his employer, and an occupational exposure
11871 occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave
11872 notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as
11873 defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor
11874 Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal
11875 meningitis, or HIV before July 1, 2020.

11876 B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or
11877 partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's
11878 employment is directly involved in diagnosing or treating persons known or suspected to have COVID-
11879 19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions
11880 are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section,
11881 the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and
11882 symptoms of COVID-19 that require medical treatment, as described in ~~subsection~~ subdivision F 2.

11883 2. COVID-19 causing the death of, or any health condition or impairment resulting in total or
11884 partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined
11885 in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed
11886 to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless
11887 such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes
11888 of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an
11889 incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical
11890 treatment.

11891 C. As used in this section:

11892 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids
11893 to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as
11894 established by the Centers for Disease Control and Prevention, apply. For purposes of potential
11895 transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids"
11896 includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other
11897 fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

11898 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any
11899 other strain of hepatitis generally recognized by the medical community.

11900 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type
11901 I or type II, causing immunodeficiency syndrome.

11902 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV,
11903 means an exposure that occurs during the performance of job duties that places a covered employee at risk
11904 of infection.

11905 D. Persons covered under this section who test positive for exposure to the enumerated
11906 occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be
11907 entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual
11908 medical examination to measure the progress of the condition, if any, and any other medical treatment,
11909 prophylactic or otherwise.

11910 E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or
11911 prophylaxis exists for the prevention of a communicable disease for which a presumption is established
11912 under this section, if medically indicated by the given circumstances pursuant to immunization policies
11913 established by the Advisory Committee on Immunization Practices of the United States Public Health
11914 Service, a person subject to the provisions of this section may be required by such person's employer to
11915 undergo the immunization or prophylaxis unless the person's physician determines in writing that the
11916 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written
11917 declaration, failure or refusal by a person subject to the provisions of this section to undergo such
11918 immunization or prophylaxis shall disqualify the person from any presumption established by this section.

11919 2. The presumptions described in ~~subsection~~ subdivision B 1 shall not apply to any person offered
11920 by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use
11921 Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the
11922 person's physician determines in writing that the immunization would pose a significant risk to the person's
11923 health. Absent such written declaration, failure or refusal by a person subject to the provisions of this
11924 section to undergo such immunization shall disqualify the person from the presumptions described in
11925 ~~subsection~~ subdivision B 1.

11926 F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke
11927 them have, if requested by the appointing authority or governing body employing them, undergone
11928 preemployment physical examinations that (i) were conducted prior to the making of any claims under

11929 this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as
11930 prescribed by the appointing authority or governing body employing such persons; (iii) included such
11931 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may
11932 have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or
11933 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective
11934 until six months following such examinations, unless such persons entitled to invoke such presumption
11935 can demonstrate a documented exposure during the six-month period.

11936 2. The presumptions described in ~~subsection~~ subdivision B 1 shall apply to any person entitled to
11937 invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from
11938 the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12,
11939 2020, and prior to December 31, 2021, and;

11940 a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed
11941 physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a
11942 laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that
11943 required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required
11944 medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

11945 b. On or after July 1, 2020, and prior to December 31, 2021, the claimant received a positive
11946 diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a
11947 presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and
11948 symptoms of COVID-19 that required medical treatment.

11949 3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them
11950 for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19
11951 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to
11952 December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either
11953 a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and
11954 symptoms of COVID-19 that required medical treatment.

11955 G. Persons making claims under this title who rely on such presumption shall, upon the request of
11956 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)
11957 conducted by physicians selected by such appointing authorities or governing bodies or their
11958 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
11959 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election
11960 of such claimant, be present at such examination.

11961 **2. That Article 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2 and §§ 4.1-1101.1, 4.1-**
11962 **1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.**

11963 **3. That the sixteenth enactment of Chapter 550 and the sixteenth enactment of Chapter 551 of the**
11964 **Acts of Assembly of 2021, Special Session I, are repealed.**

11965 **4. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, and eleventh enactments**
11966 **of this act, the provisions of this act shall become effective on January 1, 2024.**

11967 **5. That the provisions of §§ 2.2-2499.8, 4.1-603, 4.1-629, as created by this act, 4.1-1100, 4.1-1101,**
11968 **4.1-1105.1, as amended in the first enactment, 4.1-1107, 4.1-1108, and 4.1-1121 of the Code of**
11969 **Virginia; subdivisions B 13, 14, and 16 and subsection C of § 4.1-606 of the Code of Virginia; the**
11970 **seventh enactment of this act; and the repeal of the sixteenth enactment of Chapter 550 and the**
11971 **sixteenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, shall become**
11972 **effective in due course.**

11973 **6. That, subject to the provisions of the eighth enactment of this act, the provisions of § 4.1-630 and**
11974 **Chapter 7 (§ 4.1-700 et seq.), Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10**
11975 **(§ 4.1-1000 et seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1**
11976 **of the Code of Virginia, as created by this act, shall become effective on January 1, 2023.**

11977 **7. That the tenth and twenty-third enactments of Chapter 550 and the tenth and twenty-third**
11978 **enactments of Chapter 551 of the Acts of Assembly of 2021, Special Session I, are amended as**
11979 **follows:**

11980 **10. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall**
11981 **promulgate regulations to implement the provisions of this act by ~~July~~ January 1, 2023; however,**

11982 the Board shall not adopt such regulations prior to July 1, 2022, and shall present such regulations
11983 to the Cannabis Oversight Commission for review prior to adoption. With the exception of § 2.2-
11984 4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et
11985 seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall
11986 apply to the initial adoption of any regulations pursuant to this act. Prior to adopting any
11987 regulations pursuant to this act, the Board shall publish a notice of opportunity to comment in the
11988 Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such
11989 notice of opportunity to comment shall contain (i) a summary of the proposed regulations; (ii) the
11990 text of the proposed regulations; and (iii) the name, address, and telephone number of the agency
11991 contact person responsible for receiving public comments. Such notice shall be made at least 60 days
11992 in advance of the last date prescribed in such notice for submittals of public comment. The
11993 legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply
11994 to the promulgation or final adoption process for regulations pursuant to this act. The Board shall
11995 consider and keep on file all public comments received for any regulations adopted pursuant to this
11996 act. The provisions of this enactment shall become effective in due course.

11997 23. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created
11998 by this act, on the question of whether the operation of ~~retail marijuana stores~~ establishments shall
11999 be prohibited in a particular locality shall be held and results certified by December 31, 2022. A
12000 referendum on such question shall not be permitted in a locality after January 1, 2023, unless such
12001 referendum follows a referendum held prior to December 31, 2022, and any subsequent
12002 referendum, in which a majority of the qualified voters voting in such referendum voted "Yes" to
12003 prohibit the operation of ~~retail marijuana stores~~ establishments. The provisions of this enactment
12004 shall become effective July 1, 2022.

12005 8. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications
12006 for licenses pursuant to the provision of § 4.1-1000 of the Code of Virginia, as created by this act,
12007 on January 1, 2023, and shall, from January 1, 2023, until January 1, 2024, give preference to
12008 qualified social equity applicants, as determined by regulations promulgated by the Board of

12009 Directors of the Authority in accordance with this act. The Authority may issue any license
12010 authorized by this act to any applicant that meets the requirements for licensure established by this
12011 act. Notwithstanding the fourth enactment of this act, any applicant issued a license by the Authority
12012 may operate in accordance with the provisions of this act prior to January 1, 2024; however, prior
12013 to January 1, 2024, (i) no retail marijuana store licensee may sell retail marijuana, retail marijuana
12014 products, immature marijuana plants, or marijuana seeds and (ii) no marijuana cultivation facility
12015 licensee may sell immature marijuana plants or marijuana seeds to a consumer. Notwithstanding
12016 any other provision of law, on or after January 1, 2023, and prior to January 1, 2024, no marijuana
12017 cultivation facility licensee, marijuana manufacturing facility licensee, marijuana wholesaler
12018 licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent or employee
12019 thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of
12020 Title 4.1 of the Code of Virginia, § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258,
12021 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this act, or § 18.2-248.1
12022 of the Code of Virginia, as repealed by this act, involving marijuana if such violation is related to
12023 acts committed within the scope of the licensure or employment and in accordance with the
12024 provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia). From January 1,
12025 2023, to January 1, 2028, the Authority shall (a) reserve a license slot for a qualified social equity
12026 applicant for very license that was initially granted to a social equity applicant and was subsequently
12027 surrendered and (b) reserve license slots for all pharmaceutical processors that have been issued a
12028 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the Code of
12029 Virginia) of the Drug Control Act and issue a cultivation, manufacturing, wholesale, and retail
12030 license to any such pharmaceutical processor that meets the applicable licensing requirements. The
12031 Authority shall ensure that geographic dispersion is achieved regarding the issuance of retail
12032 marijuana store licenses and shall reassess the issuance of retail marijuana store licenses at the
12033 following intervals to ensure that geographic dispersion is maintained: after issuance of 100 licenses,
12034 200 licenses, and 300 licenses. The provisions of this enactment shall become effective in due course.

12035 9. That the repeal of Article 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2 of the
12036 Code of Virginia shall become effective on the earlier of (i) the promulgation by the Board of
12037 Directors of the Virginia Cannabis Control Authority of final regulations governing regulated hemp
12038 products pursuant to § 4.1-606 of the Code of Virginia, as amended by this act, or (ii) July 1, 2023.
12039 Any regulation promulgated by the Department of Agriculture and Consumer Services pursuant to
12040 Article 5 of Chapter 51 of Title 3.2 of the Code of Virginia, as repealed by this act, shall remain in
12041 full force and effect and continue to be administered by the Department of Agriculture and
12042 Consumer Services until the effective date of the repeal of Article 5 of Chapter 51 of Title 3.2 of the
12043 Code of Virginia.

12044 10. That the provisions of §§ 19.2-392.2:3 and 19.2-392.2:4 of the Code of Virginia, as created by
12045 this act, shall become effective on the earlier of (i) the first day of the fourth month following
12046 notification to the Chairman of the Virginia Code Commission and the Chairmen of the Senate
12047 Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent
12048 of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of
12049 State Police, and any circuit court clerk who maintains a case management system that interfaces
12050 with the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia have
12051 automated systems to exchange information or (ii) July 1, 2025. The Executive Secretary of the
12052 Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who
12053 maintains a case management system that interfaces with the Department of State Police under
12054 subsection B of § 17.1-502 of the Code of Virginia, shall automate systems to exchange information
12055 as required by § 19.2-392.2:3 of the Code of Virginia, as created by this act, no later than July 1,
12056 2025.

12057 11. That on or before September 1, 2022, pursuant to subsection A of § 19.2-303.03 of the Code of
12058 Virginia, as created by this act, the Department of Corrections, sheriff of a local jail, regional
12059 director of a regional jail, and the Department of Juvenile Justice, respectively, shall determine
12060 which individuals currently incarcerated in such state correctional facility, local correctional
12061 facility, or secure facility, or placed on community supervision, respectively, meet the criteria for a

12062 hearing on the modification of their sentence as set forth in subsection A of § 19.2-303.03 of the Code
12063 of Virginia, as created by this act, and shall (i) provide an electronic list of such individuals to the
12064 clerk of each circuit court in the jurisdiction where the individual was sentenced and (ii) notify all
12065 such individuals that they may be eligible for modification of their sentence, that a hearing will be
12066 scheduled for such determination, that they may file a petition for assistance of counsel and a
12067 statement of indigency, and that if they were determined to be indigent at their original sentencing,
12068 they shall be entitled to assistance of counsel for the hearing on modification of their sentence
12069 without the filing of such petition. Within 60 days of receiving the electronic list, the clerk of each
12070 circuit court shall notify the chief judge of that circuit court who shall subsequently set a hearing
12071 for each eligible individual within the timeframes required pursuant to subsection A of § 19.2-303.03
12072 of the Code of Virginia, as created by this act, to determine whether to modify such individual's
12073 sentence. The provisions of this enactment and the provisions of this act creating § 19.2-303.03 and
12074 amending § 53.1-165.1 of the Code of Virginia shall become effective in due course and shall expire
12075 on July 1, 2025.

12076 12. That the provisions of this act may result in a net increase in periods of imprisonment or
12077 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
12078 appropriation cannot be determined for periods of imprisonment in state adult correctional
12079 facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the
12080 Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant
12081 to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot
12082 be determined for periods of commitment to the custody of the Department of Juvenile Justice.

12083 #