

SENATE BILL NO. 448

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on _____)

(Patron Prior to Substitute--Senator Rouse)

A BILL to amend and reenact §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-603, 4.1-604, 4.1-606, 4.1-614, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108; and to repeal §§ 4.1-1101.1 and 4.1-1105.1, Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1, and §§ 18.2-248.1 and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

Be it enacted by the General Assembly of Virginia:

26 1. That §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-603, 4.1-604, 4.1-606, 4.1-614, 4.1-1100, 4.1-1101, 4.1-1121,
 27 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247,
 28 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-
 29 254, 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-
 30 265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-
 31 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
 32 effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301,
 33 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of Virginia are
 34 amended and reenacted and that the Code of Virginia is amended by adding in Chapter 6 of Title
 35 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7
 36 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered
 37 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and
 38 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200
 39 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and
 40 4.1-1303 through 4.1-1312, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through
 41 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108 as follows:

42 § 3.2-4113. Production of industrial hemp lawful.

43 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or
 44 his agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any
 45 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under
 46 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
 47 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol
 48 concentration that does not exceed the total tetrahydrocannabinol concentration percentage established in
 49 federal regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his
 50 agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
 51 ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the
 52 possession, handling, or processing of industrial hemp. In any complaint, information, or indictment, and

53 in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100 et
 54 seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-
 55 3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained
 56 in this article or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or
 57 exemption shall be on the defendant.

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

60 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or ~~§ 18.2-247,~~
 61 ~~18.2-248, 18.2-248.01, 18.2-248.1,~~ or 18.2-250 for the involuntary growth of industrial hemp through the
 62 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage
 63 site, or process site.

64 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

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

74 **§ 4.1-600. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

94 "Historically economically disadvantaged community" means the same as that term is defined in
95 § 56-576.

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

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

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

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

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

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

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

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

121 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and
122 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other
123 marijuana cultivation facilities; to transfer possession of ~~and sell~~ retail marijuana, immature marijuana
124 plants, and marijuana seeds to marijuana ~~wholesalers and transporters~~; to transfer possession of and sell
125 retail marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer
126 possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana
127 cultivation facilities; to transfer possession of and sell retail marijuana to marijuana ~~manufacturing~~
128 processing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the
129 purpose of cultivating marijuana at home for personal use.

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

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

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

143 "Marijuana processing facility" means a facility licensed under this subtitle to process, label, and
144 package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana
145 from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of
146 retail marijuana and retail marijuana products to marijuana transporters; and to transfer possession of and
147 sell retail marijuana and retail marijuana products to retail marijuana stores or other marijuana processing
148 facilities.

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

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

153 ~~"Marijuana wholesaler transporter" means a facility licensed under this subtitle to purchase or take~~
154 ~~possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds~~
155 ~~from a marijuana cultivation facility, a marijuana manufacturing processing facility, a retail marijuana~~
156 ~~store, or another marijuana wholesaler and transporter; to transfer possession and sell or resell of retail~~
157 ~~marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana~~
158 ~~cultivation facility, marijuana manufacturing processing facility, retail marijuana store, or another~~

159 ~~marijuana wholesaler~~ transporter; and to transport retail marijuana, retail marijuana products, immature
160 marijuana plants, and marijuana seeds from one licensed establishment to another.

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

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

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

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

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

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

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

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

184 "Retail marijuana products" means marijuana products that are ~~manufactured~~ processed and sold
185 by a licensed marijuana establishment.

186 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession
 187 of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
 188 marijuana cultivation facility, or marijuana manufacturing processing facility, ~~or~~; to take possession of
 189 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
 190 marijuana wholesaler transporter; and to sell retail marijuana, retail marijuana products, immature
 191 marijuana plants, or marijuana seeds to consumers.

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

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

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

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

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

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

204 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
 205 **meetings; compensation and expenses; duties.**

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

211 B. The Advisory Council shall have a total membership of ~~21~~ 22 members that shall consist of ~~14~~
 212 15 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the

213 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic
214 diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be
215 appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia
216 Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the
217 American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of
218 Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be
219 appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a
220 community services board, one of whom shall be a person or health care provider with expertise in
221 substance use disorder treatment and recovery, one of whom shall be a person or health care provider with
222 expertise in substance use disorder prevention, one of whom shall be a person with experience in disability
223 rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom
224 shall be a person with a social or health equity background; and ~~four~~ five to be appointed by the Governor,
225 subject to confirmation by the General Assembly, one of whom shall be a representative of a local health
226 district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an
227 academic researcher knowledgeable about cannabis, ~~and~~ one of whom shall be a registered medical
228 cannabis patient, and one of whom shall be a representative of a cannabis testing laboratory that has
229 operated in the Commonwealth for no less than one year.

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

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

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

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

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

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

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

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

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

265 **§ 4.1-604. Powers and duties of the Board.**

266 The Board shall have the following powers and duties:

- 267 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
268 and § 4.1-606;
- 269 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;
- 270 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or
271 authorized pursuant to this subtitle;
- 272 4. Determine the nature, form, and capacity of all containers used for holding marijuana products
273 to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;
- 274 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;
- 275 6. Establish standards and implement an online course for employees of retail marijuana stores
276 that trains employees on how to educate consumers on the potential risks of marijuana use;
- 277 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
278 similar document regarding the potential risks of marijuana use to be prominently displayed and made
279 available to consumers;
- 280 8. Establish a position for a Cannabis ~~Social Equity~~ Minority and Small Business Liaison who
281 shall lead the Cannabis Minority and Small Business ~~Equity and Diversity~~ Support Team and liaise with
282 the Director of Diversity, Equity, and Inclusion on matters related to ~~diversity, equity, minority~~ and
283 ~~inclusion standards~~ small business participation in the marijuana industry;
- 284 9. Establish a Cannabis Minority and Small Business ~~Equity and Diversity~~ Support Team, which
285 shall (i) ~~develop requirements for the creation and submission of diversity, equity, and inclusion plans by~~
286 ~~persons who wish to possess a license in more than one license category pursuant to subsection C of §~~
287 ~~4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship~~
288 ~~plan, and an approval process and requirements for implementation of such plans;~~ (ii) be responsible for
289 conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned
290 businesses and veteran-owned businesses interested in participating in the marijuana industry and
291 recommending strategies to effectively mitigate such potential barriers; ~~(iii)~~ (ii) provide assistance with
292 business planning for potential marijuana establishment licensees; ~~(iv)~~ (iii) spread awareness of business
293 opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana

294 prohibition and enforcement; ~~(v)~~ (iv) provide technical assistance in navigating the administrative process
295 to potential marijuana establishment licensees; and ~~(vi)~~ (v) conduct other outreach initiatives in areas
296 disproportionately impacted by marijuana prohibition and enforcement as necessary;

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

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

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

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

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

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

313 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
314 experts, investment bankers, superintendents, managers, and such other employees and special agents as
315 may be necessary and fix their compensation to be payable from funds made available to the Authority.
316 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
317 (§ 2.2-500 et seq.) of Title 2.2;

318 17. Receive and accept from any federal or private agency, foundation, corporation, association,
319 or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
320 and accept from the Commonwealth or any state and any municipality, county, or other political

321 subdivision thereof or from any other source aid or contributions of either money, property, or other things
322 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
323 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
324 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
325 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
326 conditions as are prescribed by the Commonwealth;

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

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

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

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

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

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

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

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

358 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
359 production of records, memoranda, papers, and other documents before the Board or any agent of the
360 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member
361 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
362 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
363 The Board may enter into consent agreements and may request and accept from any applicant, licensee,
364 or permittee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or
365 permit or (ii) disciplinary action. Any such consent agreement (a) shall include findings of fact and
366 provisions regarding whether the terms of the consent agreement are confidential and (b) may include an
367 admission or a finding of a violation. A consent agreement shall not be considered a case decision of the
368 Board and shall not be subject to judicial review under the provisions of the Administrative Process Act
369 (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

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

375 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for
376 violations of this subtitle and Board regulations;

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

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

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

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

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

393 33. Access during business hours any facility governed by this subtitle and any business that offers
394 for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is
395 advertised or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing
396 samples to identify potential violations of this subtitle; and

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

398 **§ 4.1-606. Regulations of the Board.**

399 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the
400 general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and
401 to prevent the illegal cultivation, ~~manufacture~~ processing, transportation, distribution, sale, and testing of

402 marijuana and marijuana products. The Board may amend or repeal such regulations. Such regulations
403 shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-
404 4000 et seq.) and shall have the effect of law.

405 B. The Board shall promulgate regulations that:

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

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

410 3. Establish sanitary standards for retail marijuana product preparation;

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

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

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

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

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

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

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

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

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

437 13. Establish criteria by which to ~~evaluate social equity~~ identify license applicants, ~~which shall be~~
438 ~~an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either~~
439 ~~(i) an applicant with~~ that have at least 66 percent ownership by a person or persons who ~~have been~~
440 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~
441 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66 percent~~
442 ~~ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been~~
443 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~
444 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66 percent~~
445 ~~ownership by a person or persons who have~~ (i) have resided for at least three of the past five years in a
446 ~~jurisdiction that is determined by the Board after utilizing census tract data made available by the United~~
447 ~~States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with~~
448 ~~at least 66 percent ownership by a person or persons who have resided for at least three of the last five~~
449 ~~years in a jurisdiction determined by the Board after utilizing census tract data made available by the~~
450 ~~United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent~~
451 ~~ownership by a person or persons who graduated from a historically black~~ historically economically
452 disadvantaged community; (ii) have attended for at least five years a public elementary or secondary
453 school located in a historically economically disadvantaged community; (iii) have received a federal Pell
454 Grant or attended for at least two years a college or university located in the Commonwealth at which at

455 least 30 percent of the students, on average, are eligible for a federal Pell Grant; (iv) are a veteran of the
456 armed forces of the United States; or (v) are an industrial hemp processor or grower that is registered with
457 the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of
458 Title 3.2 and completed such registration prior to January 1, 2021;

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

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

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

469 ~~17.~~ 15. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail
470 marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such
471 advertising displaces the illicit market and notifies the public of the location of marijuana establishments.
472 Such regulations shall be promulgated in accordance with § 4.1-1404;

473 ~~18.~~ 16. Establish restrictions on the number of licenses that a person may be granted to operate a
474 marijuana establishment in single locality or region; and

475 ~~19.~~ 17. Establish restrictions on ~~pharmaceutical processors and industrial hemp processors~~ persons
476 that have been granted a license in more than one license category pursuant to subsection ~~C~~ B of § 4.1-
477 805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. ~~Such~~
478 ~~regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor~~
479 ~~or industrial hemp processor that such processor may offer for sale in its retail marijuana stores.~~

480 C. The Board may promulgate regulations that:

481 1. Limit the number of licenses issued by type or class to operate a marijuana establishment;
482 however, the number of licenses issued shall not exceed the following limits:

- 483 a. Retail marijuana stores, 400;
- 484 b. Marijuana ~~wholesalers~~ transporters, ~~25~~ 50;
- 485 c. Marijuana ~~manufacturing~~ processing facilities, 60; and
- 486 d. Marijuana cultivation facilities, 450.

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

492 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ § 4.1-
493 ~~1003 and 4.1-1004~~, including method of filing a return, information required on a return, and form of
494 payment.

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

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

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

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

505 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
506 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,

507 7, 10, or ~~16~~ 14, and shall not promulgate any such regulation that has not been approved by a majority of
508 the members of the Cannabis Public Health Advisory Council.

509 G. With regard to regulations governing licensees that have been issued a permit by the Board of
510 ~~Pharmacy~~ to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to ~~Article 4.2~~
511 ~~(§ 54.1-3442.5 et seq.) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.)~~, the Board shall make
512 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board
513 ~~of Pharmacy~~ that establish health, safety, and security requirements for pharmaceutical processors and
514 cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated
515 pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been
516 found to be in compliance with regulations promulgated by the Board of ~~Pharmacy~~ that mirror or are more
517 extensive in scope than similar regulations promulgated pursuant to this subtitle.

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

519 **§ 4.1-614. Disposition of moneys collected by the Board.**

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

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

528 B. The net profits derived under the provisions of this subtitle shall be transferred by the
529 Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each
530 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may
531 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of
532 \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on
533 the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the

534 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general
535 appropriation act as follows:

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

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

548 D. ~~All local~~ One-half of all tax revenues collected under ~~§ 4.1-1004~~ 4.1-1003 shall be distributed
549 to the county or city in which the taxable sale occurred. Such tax revenues shall be paid into the state
550 treasury as provided in subsection A and credited to a special fund, which is hereby created on the
551 Comptroller's books under the name "Collections of Local Distribution of State Marijuana Taxes." The
552 revenues shall be credited to the account of the ~~locality~~ county or city in which they were collected. If
553 revenues were collected from a marijuana establishment located in more than one ~~locality~~ county or city
554 by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be
555 distributed pro rata among the ~~localities~~ counties or cities. The Authority shall provide to the Comptroller
556 any records and assistance necessary for the Comptroller to determine the ~~locality~~ county or city to which
557 tax revenues are attributable.

558 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the
559 proper amount in favor of each ~~locality~~ county or city entitled to ~~the return of its state~~ tax revenues, and
560 such payments shall be charged to the account of each such ~~locality~~ county or city under the special fund

561 created by this section. If errors are made in any such payment, or adjustments are otherwise necessary,
562 whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and
563 adjustments made in the payments for the next quarter.

564 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

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

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

572 The question on the ballot shall be:

573 "Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city,
574 or town)?"

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

579 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of
580 whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted
581 to operate within the locality 60 days after the results are certified or on January 1, 2025, whichever is
582 later, and no subsequent referendum may be held pursuant to this section within such locality.

583 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of
584 whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited
585 in the locality effective January 1 of the year immediately following the referendum. A referendum on the
586 same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four

587 years following the date of the previous referendum. Any subsequent referendum shall be held pursuant
588 to the provisions of this section.

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

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

599 **§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana**
600 **products.**

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

605 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that
606 prohibits the acts described in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty
607 for violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail
608 marijuana product containers in its local public parks, playgrounds, public streets, and any sidewalk
609 adjoining any public street.

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

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

616 **§ 4.1-631. Local ordinances regulating time of sale of retail marijuana and retail marijuana**
 617 **products.**

618 The governing body of each county may adopt ordinances effective in that portion of such county
 619 not embraced within the corporate limits of any incorporated town, and the governing body of each city
 620 and town may adopt ordinances effective in such city or town, fixing hours during which retail marijuana
 621 and retail marijuana products may be sold. Such governing bodies shall provide for fines and other
 622 penalties for violations of any such ordinances, which shall be enforced as if the violations were Class 1
 623 misdemeanors with a right of appeal pursuant to § 16.1-106.

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

626 On and after the effective date of any ordinance adopted pursuant to this section, no retail
 627 marijuana store shall sell retail marijuana and retail marijuana products during the hours limited by the
 628 ordinance.

629 CHAPTER 7.

630 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

631 **§ 4.1-700. Exemptions from licensure.**

632 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
 633 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with the
 634 provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial hemp that
 635 is registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§
 636 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (iii) a person that
 637 has been issued a regulated hemp product retail facility registration and is acting in accordance with the
 638 provisions of Title 3.2; (iv) a manufacturer of an edible hemp product operating in accordance with Article
 639 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person who cultivates marijuana at home for

640 personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person
641 described in clauses (i) through (iv) from obtaining a license pursuant to this subtitle, provided such person
642 satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an
643 industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title
644 3.2; or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed
645 premises a pharmaceutical processing facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an
646 industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

647 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

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

652 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting;**
653 **expiration; civil penalties.**

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

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

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

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

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

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

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

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

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

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

684 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

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

688 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in
689 accordance with Board regulations of all purchases of retail marijuana products, the prices charged such
690 licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail
691 marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board
692 regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail
693 marijuana products sold and the total price charged by it therefor. Except as otherwise provided in

694 subsections C and D, such account need not give the names or addresses of the purchasers thereof, except
695 as may be required by Board regulation.

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

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

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

709 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
710 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
711 open to the public substantially during the same hours, "reasonable hours" means the business hours when
712 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records
713 are not available for inspection, the licensee shall provide the records to a special agent of the Board within
714 24 hours after a request is made to inspect the records.

715 CHAPTER 8.

716 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

717 § 4.1-800. Marijuana cultivation facility license.

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

721 retail marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer
722 possession of retail marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters;
723 to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana
724 cultivation facilities; and to transfer possession of and sell retail marijuana to marijuana processing
725 facilities:

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

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

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

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

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

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

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

746 **§ 4.1-801. Marijuana processing facility license.**

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

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

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

764 **§ 4.1-802. Retail marijuana store license.**

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

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

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

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

777 a. An automated dispensing or vending machine;

778 b. A drive-through sales window;

779 c. An Internet-based sales platform; or

780 d. A delivery service.

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

784 4. A retail marijuana store shall not:

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

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

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

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

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

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

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

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

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

818 **§ 4.1-803. Marijuana transporter license.**

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

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

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

835 **§ 4.1-804. Marijuana testing facility license.**

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

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

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

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

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

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

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

858 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

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

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

870 **§ 4.1-806. Temporary permits required in certain instances.**

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

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

884 **§ 4.1-807. Licensee shall maintain possession of premises.**

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

890 **§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee**
891 **by licensee, agent, or employee.**

892 No marijuana or marijuana products may be used or consumed on the premises of a licensee by
893 the licensee or any agent or employee of the licensee, except for certain sampling for quality control
894 purposes that may be permitted by Board regulation.

895 **§ 4.1-809. Conditions under which the Board shall or may refuse to grant licenses.**

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

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

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

- 905 a. Is not 21 years of age or older;
- 906 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude
907 under the laws of any state or of the United States within seven years of the date of the application or has
908 not completed all terms of sentencing and probation resulting from any such conviction;
- 909 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;
- 910 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have
911 ownership interests in the business that have not been disclosed;
- 912 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
913 proposed to be licensed;
- 914 f. Has misrepresented a material fact in applying to the Board for a license;
- 915 g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
916 governmental agency or authority, by making or filing any report, document, or tax return required by
917 statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully
918 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental
919 agency or authority, by making or maintaining business records required by statute or regulation that are
920 false or fraudulent;
- 921 h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the
922 time his application for a license is pending;
- 923 i. Is a police officer with police authority in the political subdivision within which the
924 establishment designated in the application is located;
- 925 j. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
926 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.); or
- 927 k. Is physically unable to carry on the business for which the application for a license is filed or
928 has been adjudicated incapacitated.
- 929 2. The applicant is a member or employee of the Board or is a corporation or other business entity
930 in which a member or employee of the Board is a stockholder or has any other economic interest.
931 Whenever any other elected or appointed official of the Commonwealth or any political subdivision

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

936 3. The place to be occupied by the applicant:

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

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

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

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

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

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

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

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

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

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

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

974 **§ 4.1-810. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
975 **exceptions.**

976 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
977 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
978 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by
979 the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
980 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
981 shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.
982 Neither mandamus nor injunction shall lie in any such case.

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

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

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

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

992 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time
993 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
994 the Board may refuse a hearing on an application for a new license until after the date on which the
995 suspension period would have been executed had the license not been permitted to expire.

996 CHAPTER 9.

997 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

998 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

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

1000 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
1001 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
1002 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
1003 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
1004 percent or more of the membership interest of the limited liability company:

1005 a. Has misrepresented a material fact in applying to the Board for such license;

1006 b. Within the five years immediately preceding the date of the hearing held in accordance with §
1007 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.),
1008 or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or
1009 failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to
1010 comply with any of the conditions or restrictions of the license granted by the Board;

1011 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
1012 under the laws of any state or of the United States;

- 1013 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
1014 other persons have ownership interests in the business that have not been disclosed;
- 1015 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
1016 conducted under the license granted by the Board;
- 1017 f. Has been intoxicated or under the influence of some self-administered drug while upon the
1018 licensed premises;
- 1019 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
1020 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
1021 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- 1022 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
1023 such licensed premises;
- 1024 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
1025 product except as provided under this subtitle;
- 1026 j. Is physically unable to carry on the business conducted under such license or has been
1027 adjudicated incapacitated;
- 1028 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;
- 1029 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
1030 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
1031 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
1032 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
1033 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
1034 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
1035 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
1036 any conduct related to the operation of the licensed business that facilitates the commission of any of the
1037 offenses set forth herein;
- 1038 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
1039 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion

1040 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
1041 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
1042 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
1043 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.)
1044 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
1045 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
1046 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
1047 threat to the public safety;

1048 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
1049 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
1050 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1051 of public property immediately adjacent to the licensed premises; or

1052 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
1053 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

1054 2. The place occupied by the licensee:

1055 a. Does not conform to the requirements of the governing body of the county, city, or town in
1056 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
1057 any similar requirements established by the laws of the Commonwealth or by Board regulations;

1058 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

1059 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
1060 drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs
1061 are regularly used or distributed. The Board may consider the general reputation in the community of such
1062 establishment in addition to any other competent evidence in making such determination.

1063 3. The licensee or any employee of the licensee discriminated against any member of the Armed
1064 Forces of the United States by prices charged or otherwise.

1065 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
1066 had the facts been known.

1067 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
1068 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
1069 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
1070 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
1071 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
1072 plan approved by the same locality to settle the outstanding liability.

1073 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
1074 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
1075 licensed premises in the Commonwealth.

1076 7. Any other cause authorized by this subtitle.

1077 B. The Board shall promulgate regulations regarding suspension and revocation standards and
1078 protocols.

1079 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

1080 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
1081 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
1082 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
1083 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
1084 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1085 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
1086 continuing threat to public safety and that summary suspension of the license or permit is justified to
1087 protect the health, safety, or welfare of the public.

1088 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
1089 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
1090 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
1091 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
1092 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
1093 the licensee may petition the Board for a restricted license pending the results of the formal investigation

1094 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the
1095 Board shall have discretion to impose appropriate restrictions based on the facts presented.

1096 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence
1097 a formal investigation. The formal investigation shall be completed within 10 days of its commencement
1098 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,
1099 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held
1100 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days
1101 of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the
1102 hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee
1103 shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The
1104 Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

1105 D. Service of any order of suspension issued pursuant to this section shall be made by a special
1106 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect
1107 immediately upon service.

1108 E. This section shall not apply to temporary permits granted under § 4.1-806.

1109 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

1110 The Board shall suspend or revoke any license if it finds that:

1111 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
1112 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

1113 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
1114 government or governmental agency or authority, by making or filing any report, document, or tax return
1115 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of
1116 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
1117 government or governmental agency or authority, by making or maintaining business records required by
1118 statute or regulation that are false or fraudulent.

1119 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil**
1120 **penalties.**

1121 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
1122 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
1123 Administrative Process Act (§ 2.2-4000 et seq.).

1124 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
1125 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
1126 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
1127 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
1128 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
1129 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
1130 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
1131 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against
1132 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
1133 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought
1134 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1135 If the Board fails to provide for inspection or copying under this section for the licensee after a
1136 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
1137 have lawfully been entitled to inspect or copy under this section.

1138 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
1139 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
1140 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
1141 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
1142 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
1143 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither
1144 mandamus nor injunction shall lie in any such case.

1145 B. In suspending any license, the Board may impose, as a condition precedent to the removal of
1146 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
1147 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose

1148 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
1149 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
1150 violation or \$5,000 for the second or subsequent violation occurring within five years immediately
1151 preceding the date of the second or subsequent violation. However, if the violation involved selling retail
1152 marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail
1153 marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board
1154 may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years
1155 immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring
1156 within five years immediately preceding the date of the second or subsequent violation in lieu of such
1157 suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee
1158 pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding
1159 the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

1160 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
1161 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
1162 consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the
1163 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing
1164 or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed
1165 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges
1166 within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of
1167 the suspension as applicable, or (4) proceed to a hearing.

1168 D. The Board shall, by regulation or written order:

1169 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
1170 initial hearing;

1171 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
1172 of suspension may be accepted for a first offense occurring within three years immediately preceding the
1173 date of the violation;

1174 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
1175 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
1176 its employees marijuana seller training certified in advance by the Board;

1177 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
1178 license and the civil charge acceptable in lieu of such suspension; and

1179 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
1180 licensee has had no prior violations within five years immediately preceding the date of the violation. No
1181 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
1182 subtitle or Board regulations.

1183 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana**
1184 **products on hand; termination.**

1185 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
1186 any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1187 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana
1188 products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the
1189 Board; or

1190 2. Destroyed by the Board or its designee.

1191 B. All retail marijuana or retail marijuana products owned by or in the possession of any person
1192 whose license is suspended or revoked shall be disposed of by such person in accordance with the
1193 provisions of this section within 60 days from the date of such suspension or revocation.

1194 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
1195 persons whose licenses have been terminated other than by suspension or revocation may be disposed of
1196 in accordance with subsection A within such time as the Board deems proper. Such period shall not be
1197 less than 60 days.

1198 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of
1199 any person described in subsection A or C after the expiration of such period shall be deemed contraband
1200 and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

1201

CHAPTER 10.

1202

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

1203

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

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A. Every person intending to apply for any license authorized by this subtitle shall file with the

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Board an application on forms provided by the Board and a statement in writing by the applicant swearing

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and affirming that all of the information contained therein is true.

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B. Such applications shall include any information necessary for the Board to determine whether

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the applicant meets the criteria set forth in subdivision B 13 of § 4.1-606, which the Board may consider,

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along with other relevant factors, when determining whether to grant the application.

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C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by

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the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a

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pending request for such inspection. If the applicant provides proof of inspection or proof of a pending

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request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a

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pending application or inspection, such license shall authorize the licensee to purchase retail marijuana,

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retail marijuana products, immature marijuana plants, or marijuana seeds in accordance with the

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provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana products,

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immature marijuana plants, or marijuana seeds until an inspection is completed.

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D. Each applicant for a license under the provisions of this subtitle shall post a notice of his

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application with the Board on the front door of the building, place, or room where he proposes to engage

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in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and

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contain such information as required by the Board, including a statement that any objections shall be

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submitted to the Board not more than 30 days following initial posting of the notice required pursuant to

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this subsection.

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The applicant shall also cause notice to be published at least once a week for two consecutive

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weeks in a newspaper published in or having a general circulation in the county, city, or town wherein

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such applicant proposes to engage in such business. Such notice shall contain such information as required

1227 by the Board, including a statement that any objections to the issuance of the license be submitted to the
1228 Board not later than 30 days from the date of the initial newspaper publication.

1229 E. The Board shall conduct a background investigation, to include a criminal history records
1230 search, which may include a fingerprint-based national criminal history records search, on each applicant
1231 for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history
1232 records search and completed personal data form for officers, directors, nonmanaging members, or limited
1233 partners of any applicant corporation, limited liability company, or limited partnership. In considering
1234 criminal history record information, the Board shall not disqualify an applicant because of a past
1235 conviction for a marijuana-related offense.

1236 F. The Board shall notify the local governing body of each license application through the town
1237 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
1238 shall submit objections to the granting of a license within 30 days of the filing of the application.

1239 G. Each applicant shall pay the required application fee at the time the application is filed. The
1240 license application fee shall be determined by the Board and shall be in addition to the actual cost charged
1241 to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records
1242 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
1243 Criminal Records Exchange for each criminal history records search required by the Board. Application
1244 fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

1245 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
1246 all licensees shall file and maintain with the Board a current, accurate record of the information required
1247 by the Board pursuant to subsection A and notify the Board of any changes to such information in
1248 accordance with Board regulations.

1249 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
1250 Board. Such permits shall confer upon their holders no authority to make solicitations in the
1251 Commonwealth as otherwise provided by law.

1252 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
1253 for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent
1254 and multiplied by the number of months for which the permit is granted.

1255 J. The Board shall have the authority to increase state license fees. The Board shall set the amount
1256 of such increases on the basis of the consumer price index and shall not increase fees more than once every
1257 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all
1258 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
1259 would be required for any license affected by the Board's proposed fee increases. Such notice shall be
1260 provided on or before November 1 in any year in which the Board has decided to increase state license
1261 fees, and such increases shall become effective July 1 of the following year.

1262 **§ 4.1-1001. Fees for state licenses.**

1263 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover
1264 the costs of regulating the marijuana establishment.

1265 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
1266 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
1267 the number of months in the license period, and then increased by five percent. Such fee shall not be
1268 refundable, except as provided in § 4.1-1002.

1269 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
1270 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this
1271 subtitle, shall be liable to state merchants' license taxation and other state taxation.

1272 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
1273 purchased in person from the Board if such license is available for purchase online.

1274 E. The Board may waive all or part of the initial license fee if (i) the license applicant is a service
1275 disabled veteran, as defined in § 2.2-4310, or a small, women-owned, or minority-owned business, as
1276 those terms are defined in § 2.2-1604, that is certified by the Department of Small Business and Supplier
1277 Diversity pursuant to § 2.2-1606 or (ii) the licensed marijuana establishment would be located in a
1278 historically economically disadvantaged community, as defined in § 56-576.

1279 **§ 4.1-1002. Refund of state license fee.**

1280 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any
1281 amounts collected through erroneous assessments or collected as fees on licenses applications that are
1282 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is
1283 subsequently merged or changed into another license during the same license period. No refund shall be
1284 made of any such amount, however, unless made within three years from the date of collection of the
1285 same.

1286 B. In any case where a licensee has changed its name or form of organization during a license
1287 period without any change being made in its ownership, and because of such change is required to pay an
1288 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
1289 paid in excess of the required license fee for such period.

1290 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
1291 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the
1292 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
1293 similar natural disaster or phenomenon.

1294 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
1295 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1296 **§ 4.1-1003. Marijuana tax; exceptions.**

1297 A. A tax of 12 percent is levied on the sale in the Commonwealth of any retail marijuana, retail
1298 marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and
1299 non-retail marijuana products. The tax shall be in lieu of any tax imposed under the Virginia Retail Sales
1300 and Use Tax Act (§ 58.1-600 et seq.) or any other provision of state or local law.

1301 B. The tax shall not apply to any sale:

1302 1. From a marijuana establishment to another marijuana establishment.

1303 2. Of cannabis oil for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

1304 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§
1305 3.2-4112 et seq.) of Title 3.2.

1306 4. Of a hemp product or regulated hemp product.

1307 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §
1308 4.1-614.

1309 **§ 4.1-1004. Tax returns and payments; commissions; interest.**

1310 A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All
1311 taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not
1312 be liable for collecting or remitting the taxes or filing a return.

1313 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall
1314 file a return under oath with the Authority and pay any taxes due. Upon written application by a person
1315 filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the
1316 calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the
1317 accrual of any interest or penalties under § 4.1-1007.

1318 C. The Authority may accept payment by any commercially acceptable means, including cash,
1319 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
1320 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

1321 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
1322 card, or automated clearinghouse transfer information and use such information for future payments of
1323 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any
1324 payments made under this subsection. The Authority may procure the services of a third-party vendor for
1325 the secure storage of information collected pursuant to this subsection.

1326 E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the
1327 business, such person shall make a final return and payment within 15 days after the date of selling or
1328 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase
1329 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner
1330 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or
1331 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as

1332 provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties
1333 due and unpaid on account of the operation of the business by any former owner.

1334 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a
1335 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under
1336 § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

1337 **§ 4.1-1005. Bonds.**

1338 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
1339 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such surety
1340 as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become
1341 due from such person. In lieu of such bond, securities approved by the Authority may be deposited with
1342 the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold
1343 by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to
1344 do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the
1345 surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

1346 **§ 4.1-1006. Refunds.**

1347 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §
1348 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise
1349 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii)
1350 destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the
1351 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,
1352 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund
1353 payment from the state treasury to such extent as may be proper.

1354 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
1355 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall
1356 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such
1357 extent as may be proper.

1358 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-
1359 1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of
1360 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax
1361 so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller
1362 after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct
1363 the same in submitting his return.

1364 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
1365 **penalties.**

1366 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which
1367 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the
1368 Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the
1369 collection of such taxes may be begun without assessment, at any time within six years from such date.
1370 The Authority shall not examine any person's records beyond the three-year period of limitations unless
1371 it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to
1372 file a return and failed to do so.

1373 B. If any person fails to file a return as required by this section, or files a return that is false or
1374 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
1375 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
1376 days' notice requiring such person to provide any records as it may require relating to the business of such
1377 person for the taxable period. The Authority may require such person or the agents and employees of such
1378 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
1379 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
1380 required return, refuses to provide required records, or refuses to answer interrogatories from the
1381 Authority, the Authority may make an estimated assessment based upon the information available to it
1382 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
1383 The estimated assessment shall be deemed prima facie correct.

1384 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
1385 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
1386 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
1387 the person's place of business is located or in which the person resides. If the person has no place of
1388 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
1389 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
1390 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment
1391 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
1392 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may
1393 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time
1394 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien
1395 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,
1396 in those instances where the Authority determines that the collection of any tax, penalties, or interest
1397 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may
1398 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given
1399 to the person at his last known address.

1400 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
1401 appeal under § 4.1-1008.

1402 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
1403 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing
1404 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each
1405 of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or
1406 satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias
1407 to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior
1408 approval of the Authority. In the event that the person against whom the distraint has been applied
1409 subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount
1410 of liability in lieu of payment until the appeal is resolved.

1411 4. A person may petition the Authority after a memorandum of lien has been filed under this
1412 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination
1413 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a
1414 certificate of release of the lien within seven days after such determination is made.

1415 **§ 4.1-1008. Appeals.**

1416 Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the
1417 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to
1418 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire
1419 evidential record of the proceedings provided by the Authority in accordance with the Administrative
1420 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding
1421 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by
1422 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in
1423 any such case.

1424 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age**
1425 **or older lawful; penalties.**

1426 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a
1427 person 21 years of age or older may lawfully possess on his person or in any public place not more than
1428 ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as
1429 determined by regulation promulgated by the Board.

1430 B. Any person who possesses on his person or in any public place marijuana or marijuana products
1431 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except
1432 as otherwise provided in this section. The penalty for any violations of this section by an adult shall be
1433 prepayable according to the procedures in § 16.1-69.40:2.

1434 C. With the exception of possession by a person in his residence or possession by a licensee in the
1435 course of his duties related to such licensee's marijuana establishment, any person who possesses on his
1436 person or in any public place (i) more than four ounces but not more than one pound of marijuana or an
1437 equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty

1438 of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more
 1439 than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation
 1440 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one
 1441 year nor more than 10 years and a fine of not more than \$250,000, or both.

1442 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
 1443 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
 1444 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
 1445 necessary for the performance of their duties.

1446 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

1447 A. ~~Notwithstanding the provisions of subdivision (c) of § 18.2-248.1, a~~ A person 21 years of age
 1448 or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at
 1449 no point shall a household contain more than four marijuana plants. For purposes of this section, a
 1450 "household" means those individuals, whether related or not, who live in the same house or other place of
 1451 residence.

1452 A person may only cultivate marijuana plants pursuant to this section at such person's main place
 1453 of residence.

1454 A violation of this subsection shall be punishable as follows:

- 1455 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a
 1456 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class
 1457 2 misdemeanor for a third and any subsequent offense;
- 1458 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;
- 1459 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and
- 1460 4. For possession of more than 100 marijuana plants, a felony punishable by a term of
 1461 imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or
 1462 both.

1463 B. A person who cultivates marijuana for personal use pursuant to this section shall:

- 1464 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft,
- 1465 binoculars, or other optical aids;
- 1466 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and
- 1467 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
- 1468 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
- 1469 under this section.

1470 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The

1471 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §

1472 16.1-69.40:2.

1473 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The

1474 owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to

1475 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land. A

1476 violation of this subsection is punishable as a Class 1 misdemeanor.

1477 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana**

1478 **products; conspiracy; penalties.**

1479 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or

1480 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this

1481 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1482 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1483 C. If two or more persons conspire together to do any act that is in violation of subsection A, and

1484 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such

1485 conspiracy is guilty of a Class 6 felony.

1486 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1487 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons

1488 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in

1489 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the

1490 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of

1491 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods
1492 or services.

1493 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
1494 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
1495 subsection C, he is guilty of a Class 2 misdemeanor.

1496 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1497 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
1498 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1499 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of**
1500 **legal age; penalties.**

1501 A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or
1502 marijuana products to any individual when at the time of such sale he knows or has reason to believe that
1503 the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person
1504 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1505 B. It is unlawful for any person to sell or distribute, or possess with the intent to sell or distribute,
1506 marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this
1507 subsection is guilty of a Class 1 misdemeanor.

1508 C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication
1509 any advertisement, knowing or under circumstances where one reasonably should know, that the purpose
1510 of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons
1511 younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

1512 D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an
1513 individual who is younger than 21 years of age and at the time of the sale does not require the individual
1514 to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty
1515 of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or
1516 reasonably appears to be an unexpired driver's license issued by any state of the United States or the
1517 District of Columbia, military identification card, United States passport or foreign government visa,

1518 unexpired special identification card issued by the Department of Motor Vehicles, or any other valid
1519 government-issued identification card bearing the individual's photograph, signature, height, weight, and
1520 date of birth, or which bears a photograph that reasonably appears to match the appearance of the
1521 purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes
1522 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3
1523 misdemeanor.

1524 E. No person shall be convicted of both subsections A and D for the same sale.

1525 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
1526 **exceptions; penalties; forfeiture; treatment and education programs and services.**

1527 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under
1528 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any
1529 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-
1530 enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the
1531 performance of his duties. Such person may be prosecuted either in the county or city in which the
1532 marijuana or marijuana products were possessed or consumed or in the county or city in which the person
1533 exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

1534 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
1535 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
1536 if available, that in the opinion of the court best suits the needs of the accused.

1537 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who
1538 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
1539 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion
1540 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-
1541 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

1542 D. Any such substance abuse treatment or education program to which a juvenile is ordered
1543 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral
1544 Health and Developmental Services or (ii) a similar program available through a facility or program

1545 operated by or under contract with the Department of Juvenile Justice or a locally operated court services
1546 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et
1547 seq.). Any such substance abuse treatment or education program to which a person 18 years of age or
1548 older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of
1549 Behavioral Health and Developmental Services or (b) a program or services made available through a
1550 community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of
1551 Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local
1552 community-based probation services agency, the local community-based probation services agency shall
1553 be responsible for providing for services or referring the offender to education or treatment services as a
1554 condition of probation.

1555 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
1556 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years
1557 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a
1558 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth
1559 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued
1560 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth
1561 certificate, or student identification card of another person in order to establish a false identification or
1562 false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail
1563 marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1
1564 misdemeanor.

1565 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
1566 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

1567 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
1568 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
1569 immunity from an administrative penalty for a violation of § 4.1-1104.

1570 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they**
1571 **may not be sold; penalties; forfeiture.**

1572 A. Any person who purchases retail marijuana or retail marijuana products for another person and
1573 at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana
1574 or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

1575 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
1576 marijuana or retail marijuana products to, another person when he knows or has reason to know that such
1577 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when
1578 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
1579 Class 1 misdemeanor.

1580 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
1581 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

1582 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana**
1583 **products; penalty.**

1584 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the
1585 Commonwealth.

1586 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1587 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1588 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
1589 every description where marijuana or marijuana products are manufactured, processed, stored, sold,
1590 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed
1591 common nuisances.

1592 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
1593 nuisance.

1594 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1595 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
1596 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305
1597 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat,
1598 car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving

1599 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that
1600 the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a
1601 period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as
1602 provided in § 4.1-1305.

1603 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
1604 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
1605 had the right, because of such unlawful use, to enter and repossess the property.

1606 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1607 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
1608 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
1609 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
1610 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
1611 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a
1612 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
1613 felony.

1614 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1615 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
1616 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
1617 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
1618 to hold and conduct such hearing.

1619 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1620 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1621 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
1622 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
1623 correctional center any marijuana or marijuana products.

1624 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1625 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1626 A. No person shall separate plant resin by butane extraction or another method that utilizes a
 1627 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
 1628 the curtilage of any residential structure.

1629 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1630 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1631 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another
 1632 in doing, or attempting to do, any of the things prohibited by this subtitle.

1633 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court
 1634 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
 1635 as if the defendant were solely guilty of such violation.

1636 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1637 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in
 1638 the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be
 1639 proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under
 1640 this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such
 1641 violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this
 1642 section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed
 1643 pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the
 1644 Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1645 CHAPTER 12.

1646 PROHIBITED PRACTICES BY LICENSEES.

1647 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

1648 A. No licensee or any agent or employee of such licensee shall:

- 1649 1. Cultivate, process, transport, sell, or test any retail marijuana or retail marijuana products of a
 1650 kind other than that which such license or this subtitle authorizes him to cultivate, process, transport, sell,
 1651 or test;

1652 2. Sell retail marijuana or retail marijuana products to any person other than a person to whom
1653 such license or this subtitle authorizes him to sell;

1654 3. Cultivate, process, transport, sell, or test retail marijuana or retail marijuana products that such
1655 license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or
1656 this subtitle authorizes him to cultivate, process, transport, sell, or test;

1657 4. Cultivate, process, transport, sell, or test any retail marijuana or retail marijuana products when
1658 forbidden by this subtitle;

1659 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana
1660 or retail marijuana products other than that which he is authorized to cultivate, process, transport, sell, or
1661 test by such license or by this subtitle;

1662 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was
1663 purchased by him; or

1664 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

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

1666 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

1667 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
1668 employee shall consume any retail marijuana or retail marijuana products while on duty and in a position
1669 that is involved in the selling of retail marijuana or retail marijuana products to consumers.

1670 B. No retail marijuana store licensee or his agent or employee shall make any gift of any retail
1671 marijuana or retail marijuana products.

1672 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
1673 amount not to exceed \$500.

1674 **§ 4.1-1202. Sale of; purchase for resale; retail marijuana or retail marijuana products from**
1675 **a person without a license; penalty.**

1676 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
1677 resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
1678 seeds purchased from anyone other than a marijuana cultivation facility or marijuana processing facility.

1679 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1680 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by**
1681 **licensees; penalty.**

1682 A. No licensed marijuana establishment shall transfer any retail marijuana or retail marijuana
1683 products from one licensed place of business to another licensed place of business unless such transfer is
1684 completed by a marijuana transporter licensee.

1685 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1686 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

1687 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
1688 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
1689 decorations under circumstances prohibited by this title or Board regulations.

1690 Any person found by the Board to have violated this section shall be subject to a civil penalty as
1691 authorized in § 4.1-903.

1692 **§ 4.1-1205. Solicitation by persons interested in cultivation, etc., of retail marijuana or retail**
1693 **marijuana products; penalty.**

1694 A. No person having any interest, direct or indirect, in the cultivation, processing, distribution, or
1695 sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon
1696 such conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store
1697 licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in
1698 any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail
1699 marijuana products in which such person may be so interested.

1700 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate
1701 the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful
1702 solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana
1703 or retail marijuana products cultivated, processed, or distributed by either the employer or principal of
1704 such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may
1705 impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

1706 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1707 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person
1708 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
1709 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

1710 The Board may suspend or revoke the license granted to such licensee or may impose a civil
1711 penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

1712 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1713 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
1714 **accounts or to allow examination and inspection; penalty.**

1715 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,
1716 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)
1717 allow such records, invoices, and accounts or his place of business to be examined and inspected in
1718 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
1719 misdemeanor.

1720 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
1721 may suspend or revoke any license of such licensee that was issued by the Authority.

1722 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

1723 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due
1724 under § 4.1-1003. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any
1725 retail marijuana or retail marijuana products on which such retailer has reason to know such tax has not
1726 been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class
1727 1 misdemeanor.

1728 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil
1729 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not
1730 more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during
1731 which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

1732 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
1733 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50
1734 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any
1735 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the
1736 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the
1737 actual amount.

1738 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the
1739 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount
1740 due within five days after the Authority gives it notice that such check was returned unpaid, the person
1741 that tendered the check is guilty of a violation of § 18.2-182.1.

1742 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
1743 manner as if they were a part of the tax imposed.

1744 **§ 4.1-1300. Enjoining nuisances.**

1745 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney
1746 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined
1747 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
1748 nuisance.

1749 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
1750 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
1751 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such house,
1752 building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction
1753 shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the
1754 owners and tenants and their agents and employees, and any person connected with such house, building,
1755 or other place, and all persons whomsoever from cultivating, processing, storing, selling, dispensing,
1756 giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain
1757 all persons from removing any marijuana or marijuana products then on such premises until the further
1758 order of the court. If the court is satisfied that the material allegations of the bill are true, although the

1759 premises complained of may not then be unlawfully used, it shall continue the injunction against such
1760 place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is
1761 shown for dissolution.

1762 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to**
1763 **forfeiture.**

1764 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,
1765 all marijuana or marijuana products and materials used in their manufacture or processing, and all
1766 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or in
1767 any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described
1768 in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person
1769 is using, to aid such person in the unlawful cultivation, manufacture, processing, transportation, or sale of
1770 marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other
1771 beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the
1772 immediate vicinity of any place where marijuana or marijuana products are being unlawfully
1773 manufactured or processed and where such animal or vehicle is being used to aid in the unlawful
1774 manufacture or processing, shall be deemed contraband and shall be forfeited to the Commonwealth.

1775 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
1776 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with
1777 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1778 **§ 4.1-1303. Search warrants.**

1779 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,
1780 manufactured, processed, sold, kept, stored, or in any manner held, used, or concealed in a particular
1781 house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue
1782 criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such
1783 belief, shall issue a warrant to search such house or other place for marijuana or marijuana products. Such
1784 warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance with
1785 the laws of the Commonwealth pertaining to search warrants.

1786 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or
1787 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or
1788 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they
1789 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,
1790 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be
1791 transported contrary to law.

1792 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

1793 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
1794 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1795 B. Whenever any article declared contraband under the provisions of this subtitle and required to
1796 be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with
1797 the enforcement of this subtitle, he shall produce the contraband article and any person in whose
1798 possession it was found. In those cases where no person is found in possession of such articles, the return
1799 shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the
1800 articles were found, or if there is no door, then in any conspicuous place upon the premises.

1801 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
1802 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
1803 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
1804 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
1805 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
1806 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,
1807 and the materials remaining after such destruction. The report shall include a statement that, from facts
1808 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set
1809 up for use, or had been used in the unlawful cultivation, processing, or manufacture of marijuana, and that
1810 it was impracticable to remove such apparatus to a place of safe storage.

1811 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
1812 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof

1813 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or
1814 any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness,
1815 and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the
1816 Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and
1817 destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness
1818 have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful
1819 cultivation, processing, or manufacture of marijuana or marijuana products or were intended for use in
1820 violation of this subtitle.

1821 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than
1822 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on
1823 such return to determine whether or not the articles seized, or any part thereof, were used or in any manner
1824 kept, stored, or possessed in violation of this subtitle.

1825 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
1826 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
1827 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
1828 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
1829 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
1830 determine the validity of such claim.

1831 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
1832 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
1833 not be a bar to any prosecution under any other provision of this subtitle.

1834 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with
1835 this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales
1836 shall be paid into the Literary Fund.

1837 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
1838 Board in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose
1839 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall

1840 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
1841 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
1842 date when given and shall be kept in the offices of the Board.

1843 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

1844 A. When any officer charged with the enforcement of the cannabis control laws of the
1845 Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired,
1846 or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water,
1847 except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car or a
1848 steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search
1849 such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail
1850 marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-
1851 half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail
1852 marijuana product are found, the officer shall seize the retail marijuana or retail marijuana product, seize
1853 and take possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer
1854 of the locality in which such seizure was made, taking his receipt therefor in duplicate.

1855 B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the
1856 attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

1857 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

1858 Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed
1859 contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other
1860 indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail
1861 marijuana products within the Commonwealth when other Board regulations applicable to such
1862 transportation have been complied with shall not be cause for deeming such retail marijuana or retail
1863 marijuana products contraband.

1864 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

1865 A. Any person convicted of a misdemeanor under the provisions of this subtitle without
1866 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
1867 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

1868 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any
1869 person is convicted of a violation of any provision of this subtitle may require such defendant to execute
1870 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
1871 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one
1872 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,
1873 or until he is discharged by the court, provided that he shall not be confined for a period longer than six
1874 months. If any such bond required by a court is not given during the term of the court by which conviction
1875 is had, it may be given before any judge or before the clerk of such court.

1876 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or
1877 refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

1878 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
1879 assistant has been notified that such a case is pending.

1880 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

1881 No person shall be excused from testifying for the Commonwealth as to any offense committed
1882 by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given
1883 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
1884 used against him and he shall not be prosecuted for the offense to which he testifies.

1885 **§ 4.1-1309. Previous convictions.**

1886 In any indictment, information, or warrant charging any person with a violation of any provision
1887 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
1888 such person has been previously convicted of a violation of this subtitle.

1889 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1890 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board
1891 or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts

1892 therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements
1893 of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of
1894 the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the
1895 accused or any party in interest, the court may require the forensic scientist making the analysis to appear
1896 as a witness and be subject to cross-examination, provided such motion is made within a reasonable time
1897 prior to the day on which the case is set for trial.

1898 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

1899 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
1900 retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana
1901 content of the container. Nothing shall preclude the introduction of other relevant evidence to establish
1902 the marijuana content of a container, whether sealed or not.

1903 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

1904 No action to recover the price of any retail marijuana or retail marijuana products sold in
1905 contravention of this subtitle may be maintained.

1906 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

1907 The Board shall establish a testing program for marijuana and marijuana products. Except as
1908 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,
1909 prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another
1910 licensee, to submit a representative sample of the retail marijuana or retail marijuana product, not to exceed
1911 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that
1912 the retail marijuana or retail marijuana product does not exceed the maximum level of allowable
1913 contamination for any contaminant that is injurious to health and for which testing is required and to
1914 ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to
1915 this section; (ii) establishing acceptable testing and research practices, including regulations relating to
1916 testing practices, methods, and standards; quality control analysis; equipment certification and calibration;
1917 marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused,
1918 and waste retail marijuana and retail marijuana products; and reporting of test results; (iii) identifying the

1919 types of contaminants that are injurious to health for which retail marijuana and retail marijuana products
1920 shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for
1921 each contaminant.

1922 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not**
1923 **required; required destruction; random testing.**

1924 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
1925 or to another licensee under this subtitle unless a representative sample of the retail marijuana or retail
1926 marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this
1927 subtitle and the mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product
1928 does not exceed the maximum level of allowable contamination for any contaminant that is injurious to
1929 health and for which testing is required and (ii) the labeling on the retail marijuana or retail marijuana
1930 product is correct.

1931 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall
1932 include testing for:

1933 1. Residual solvents, poisons, and toxins;

1934 2. Harmful chemicals;

1935 3. Dangerous molds and mildew;

1936 4. Harmful microbes, including Escherichia coli and Salmonella;

1937 5. Pesticides, fungicides, and insecticides; and

1938 6. Tetrahydrocannabinol potency, homogeneity, and cannabinoid profiles to ensure correct
1939 labeling.

1940 Testing shall be performed on the final form in which the retail marijuana or retail marijuana
1941 product will be consumed.

1942 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
1943 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the
1944 marijuana testing facility, and the results of the mandatory test.

1945 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
1946 marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or
1947 contamination for any contaminant that is injurious to health and for which testing is required, the
1948 marijuana testing facility shall immediately quarantine, document, and properly destroy the retail
1949 marijuana or retail marijuana product and within seven days of completing the test shall notify the Board
1950 of the test results.

1951 A marijuana testing facility is not required to notify the Board of the results of any test:

1952 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant
1953 to this section that demonstrates that the retail marijuana or retail marijuana product does not exceed the
1954 maximum level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious
1955 to health and for which testing is required;

1956 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for
1957 research and development purposes only, so long as the licensee notifies the marijuana testing facility
1958 prior to the performance of the test that the testing is for research and development purposes only; or

1959 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
1960 not a licensee.

1961 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
1962 licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in
1963 accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions
1964 are met:

1965 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
1966 with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and
1967 the testing demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum
1968 level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health
1969 and for which testing is required;

1970 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana
1971 product are documented in accordance with the requirements of this subtitle and all applicable regulations
1972 adopted pursuant to this subtitle;

1973 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
1974 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product
1975 to another licensee or to a consumer can be easily identified; and

1976 4. The retail marijuana or retail marijuana product has not undergone any further processing,
1977 manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

1978 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
1979 marijuana products whose testing samples indicate noncompliance with the health and safety standards
1980 required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial
1981 measures can bring the retail marijuana or retail marijuana product into compliance with such required
1982 health and safety standards.

1983 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana
1984 products for the purpose of random testing by a state-owned laboratory or state-approved private
1985 laboratory.

1986 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

1987 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
1988 consumer shall be labeled with the following information:

1989 1. Identification of the type of retail marijuana or retail marijuana product and the date of
1990 cultivation, processing, and packaging;

1991 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and
1992 the retail marijuana store where the retail marijuana or retail marijuana product was cultivated, processed,
1993 and offered for sale, as applicable;

1994 3. A statement of the net weight of the retail marijuana or retail marijuana product;

1995 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,
1996 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid

1997 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains
1998 tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the
1999 package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and
2000 (v) the potency of the tetrahydrocannabinol and other cannabinoid content;

2001 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

2002 6. Instructions on usage, including information regarding the amount of retail marijuana or retail
2003 marijuana product that constitutes a single serving;

2004 7. A recommended use by date or expiration date;

2005 8. For retail marijuana and retail marijuana products, the following statement, prominently
2006 displayed in bold print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS
2007 PACKAGE CONTAINS MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA
2008 MAY ONLY BE SOLD TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT
2009 OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND
2010 YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING. MARIJUANA SHOULD NOT BE
2011 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT
2012 (website maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

2013 9. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail
2014 marijuana products;

2015 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total
2016 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the
2017 batch from which the substance originates; and

2018 11. Any other information required by Board regulations.

2019 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
2020 consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:

2021 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-
2022 evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer
2023 in child-resistant, tamper-evident, and resealable packaging that is opaque;

2024 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
2025 component; and

2026 3. Packaging shall comply with any other requirements imposed by Board regulations.

2027 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
2028 consumer in accordance with the provisions of this subtitle shall not:

2029 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise
2030 be labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other
2031 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or
2032 distributor of a product intended for human consumption other than the manufacturer, processor, packer,
2033 or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise
2034 be packaged or labeled in violation of a federal trademark law or regulation;

2035 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
2036 of age;

2037 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2038 4. Be labeled or packaged using a false or misleading label;

2039 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a
2040 human, animal, vehicle, or fruit; and

2041 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
2042 by Board regulations.

2043 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**
2044 **retail marijuana products deemed applicable by the Authority; health and safety regulations.**

2045 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
2046 retail marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee
2047 to a consumer:

2048 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

2049 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

2050 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within
2051 the product being homogeneous throughout the product or throughout each element of the product that
2052 has a cannabinoid content;

2053 4. Shall be processed and manufactured in a manner that results in the amount of marijuana
2054 concentrate within the product being homogeneous throughout the product or throughout each element of
2055 the product that contains marijuana concentrate;

2056 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

2057 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product
2058 and shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

2059 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
2060 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
2061 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
2062 than 21 years of age; and

2063 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
2064 the trademarked product is used as a component of or ingredient in the edible marijuana product and the
2065 edible marijuana product is not advertised or described for sale as containing the trademarked product.

2066 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations
2067 that it deems necessary for retail marijuana and retail marijuana products to be sold or offered for sale by
2068 a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection
2069 shall establish mandatory health and safety standards applicable to the cultivation of retail marijuana, the
2070 processing and manufacture of retail marijuana products, and the packaging and labeling of retail
2071 marijuana and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:

2072 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail
2073 marijuana products by licensees;

2074 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing
2075 and manufacture of retail marijuana and retail marijuana products; and

2076 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana
2077 stores.

2078 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2079 A. A practitioner in the course of his professional practice may issue a written certification for the
2080 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
2081 determined by the practitioner to benefit from such use. The practitioner shall use his professional
2082 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
2083 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-
2084 time interactive audiovisual technology. No practitioner may issue a written certification while such
2085 practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A
2086 pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to
2087 patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis
2088 to a minor, the written certification shall specifically authorize such dispensing. If not specifically included
2089 on the initial written certification, authorization for botanical cannabis may be communicated verbally or
2090 in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall
2091 not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor,
2092 cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis
2093 dispensing facility, or provider of paraphernalia, excluding information on products or educational
2094 materials on the benefits and risks of cannabis products.

2095 B. The written certification shall be on a form provided by the Authority. Such written certification
2096 shall contain the name, address, and telephone number of the practitioner, the name and address of the
2097 patient issued the written certification, the date on which the written certification was made, and the
2098 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to
2099 subsection A shall expire one year after its issuance unless the practitioner provides in such written
2100 certification an earlier expiration. A written certification shall not be issued to a patient by more than one
2101 practitioner during any given time period.

2102 C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-
2103 ~~248 or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the treatment or
2104 to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification
2105 issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional
2106 licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical
2107 condition or otherwise violating the applicable standard of care for evaluating or treating medical
2108 conditions.

2109 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall
2110 hold sufficient education and training to exercise appropriate professional judgment in the certification of
2111 patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian,
2112 or registered agent that is contingent on or encourages the person's decision to use a particular
2113 pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family
2114 members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than
2115 those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a
2116 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients
2117 to whom a practitioner may issue a written certification. The Board may report information to the
2118 applicable licensing board on unusual patterns of certifications issued by a practitioner.

2119 E. No patient shall be required to physically present the written certification after the initial
2120 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
2121 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an
2122 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
2123 shall electronically transmit on a monthly basis all new written certifications received by the
2124 pharmaceutical processor or cannabis dispensing facility to the Authority.

2125 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
2126 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
2127 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
2128 register with the Board unless the individual's name listed on the patient's written certification. An

2129 individual may, on the basis of medical need and in the discretion of the patient's registered practitioner,
2130 be listed on the patient's written certification upon the patient's request. The Board may set a limit on the
2131 number of patients for whom any individual is authorized to act as a registered agent.

2132 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing
2133 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility
2134 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
2135 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for
2136 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product
2137 to the patient or resident as necessary.

2138 H. Information obtained under the patient certification or agent registration process shall be
2139 confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information
2140 Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the
2141 Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii)
2142 state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a
2143 specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents,
2144 for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained
2145 by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a
2146 patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

2147 **§ 4.1-1604. Criminal liability; exceptions.**

2148 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
2149 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession or
2150 manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to
2151 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
2152 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes
2153 of producing cannabis products in accordance with the provisions of this chapter and Board regulations
2154 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally

2155 accepted cannabis industry standards in accordance with the provisions of this chapter and Board
2156 regulations.

2157 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
2158 **operation.**

2159 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above or upon the
2160 lands or waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any
2161 narcotic or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a
2162 state correctional facility not less than one nor more than five years, or, in the discretion of the court or
2163 jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or
2164 both such fine and imprisonment.

2165 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
2166 lands or waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the
2167 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
2168 any person or property, ~~shall be~~ is guilty of a misdemeanor.

2169 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2170 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
2171 provided in § 4.1-600.

2172 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
2173 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
2174 any state law or regulation solely for providing such a financial service or for further investing any income
2175 derived from such a financial service.

2176 C. Nothing in this section shall require a bank or credit union to provide financial services to a
2177 licensed marijuana establishment.

2178 **§ 9.1-1101. Powers and duties of the Department.**

2179 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
2180 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
2181 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,

2182 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
2183 the head of any private police department that has been designated as a criminal justice agency by the
2184 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal
2185 matter. The Department shall provide such services to any federal investigatory agency within available
2186 resources.

2187 B. The Department shall:

2188 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
2189 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
2190 Commonwealth as needed;

2191 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
2192 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

2193 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
2194 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
2195 breath; and

2196 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
2197 in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-
2198 3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall
2199 consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall
2200 include the total available THC derived from the sum of the THC and THC-A content.

2201 C. The Department shall have the power and duty to:

2202 1. Receive, administer, and expend all funds and other assistance available for carrying out the
2203 purposes of this chapter;

2204 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
2205 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
2206 United States, units of general local government or combinations thereof in Virginia or other states, and
2207 with agencies and departments of the Commonwealth; and

2208 3. Perform such other acts as may be necessary or convenient for the effective performance of its
2209 duties.

2210 D. The Director may appoint and employ a deputy director and such other personnel as are needed
2211 to carry out the duties and responsibilities conferred by this chapter.

2212 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
2213 **fines; prepayment of local ordinances.**

2214 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
2215 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
2216 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
2217 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
2218 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
2219 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
2220 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
2221 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
2222 as authorized in § 46.2-878.3.

2223 Such infractions shall not include:

2224 1. Indictable offenses;

2225 2. [Repealed.]

2226 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
2227 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
2228 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
2229 or in his custody or control;

2230 4. Reckless driving;

2231 5. Leaving the scene of an accident;

2232 6. Driving while under suspension or revocation of driving privileges;

2233 7. Driving without being licensed to drive.

2234 8. [Repealed.]

2235 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
2236 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
2237 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
2238 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
2239 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
2240 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

2241 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
2242 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
2243 be imposed, designating each infraction specifically. The schedule, which may from time to time be
2244 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
2245 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
2246 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
2247 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
2248 with the provisions of this Code or any rules or regulations promulgated thereunder.

2249 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
2250 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
2251 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
2252 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
2253 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
2254 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
2255 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
2256 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
2257 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
2258 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
2259 provisions of this Code or any rules or regulations promulgated thereunder.

2260 **§ 16.1-260. Intake; petition; investigation.**

2261 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
2262 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
2263 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
2264 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
2265 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
2266 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
2267 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
2268 and file petitions and motions relating to the establishment, modification, or enforcement of support on
2269 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
2270 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
2271 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
2272 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
2273 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf
2274 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
2275 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
2276 shall be referred initially to the local department of social services in accordance with the provisions of
2277 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
2278 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
2279 inquire whether the petitioner is receiving child support services or public assistance. No individual who
2280 is receiving support services or public assistance shall be denied the right to file a petition or motion to
2281 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
2282 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
2283 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.
2284 If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner
2285 information on the possible availability of medical assistance through the Family Access to Medical
2286 Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of
2287 Medical Assistance Services.

2288 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
2289 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
2290 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
2291 communications and proceedings shall be conducted in the same manner as if the appearance were in
2292 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
2293 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
2294 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
2295 signatures. Any two-way electronic video and audio communication system used for an appearance shall
2296 meet the standards as set forth in subsection B of § 19.2-3.1.

2297 When the court service unit of any court receives a complaint alleging facts which may be
2298 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
2299 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
2300 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
2301 probable cause for the issuance of the petition.

2302 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
2303 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
2304 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
2305 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
2306 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
2307 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
2308 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
2309 that would be a felony if committed by an adult.

2310 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
2311 and the attendance officer has provided documentation to the intake officer that the relevant school
2312 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
2313 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
2314 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated

2315 in need of supervision on more than two occasions for failure to comply with compulsory school
2316 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
2317 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
2318 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
2319 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
2320 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
2321 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
2322 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
2323 appropriate public agency for the purpose of developing a truancy plan using an interagency
2324 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
2325 from the appropriate department of social services, community services board, local school division, court
2326 service unit, and other appropriate and available public and private agencies and may be the family
2327 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
2328 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
2329 shall file the petition.

2330 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
2331 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
2332 plan for the juvenile, which may include restitution, the performance of community service, or on a
2333 complaint alleging that a child has committed a delinquent act other than an act that would be a felony or
2334 a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
2335 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
2336 community resources and the circumstances which resulted in the complaint, (B) create an official record
2337 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the
2338 juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant
2339 that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon
2340 facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case
2341 of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any

2342 subsequent report from the youth justice diversion program alleging that the juvenile failed to comply
2343 with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in
2344 the filing of a petition with the court.

2345 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
2346 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
2347 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
2348 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
2349 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
2350 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,
2351 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
2352 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
2353 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
2354 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
2355 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
2356 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
2357 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
2358 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
2359 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
2360 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-
2361 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
2362 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2363 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
2364 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
2365 need of supervision have utilized or attempted to utilize treatment and services available in the community
2366 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
2367 officer determines that the parties have not attempted to utilize available treatment or services or have not
2368 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the

2369 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
2370 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
2371 the parties have made a reasonable effort to utilize available community treatment or services may he
2372 permit the petition to be filed.

2373 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
2374 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
2375 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of
2376 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the
2377 magistrate shall be filed within 10 days of the issuance of the written notification. The written notification
2378 shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice
2379 that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide
2380 the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate
2381 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
2382 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
2383 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
2384 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
2385 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
2386 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
2387 a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition
2388 relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as
2389 a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is
2390 appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a
2391 magistrate for a warrant.

2392 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
2393 the intake officer shall accept and file a petition founded upon the warrant.

2394 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
2395 which alleges facts of an offense which would be a felony if committed by an adult.

2396 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
 2397 report with the division superintendent of the school division in which any student who is the subject of a
 2398 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
 2399 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
 2400 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
 2401 of the filing of the petition and the nature of the offense, if the violation involves:

- 2402 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
 2403 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;
- 2404 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2405 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
 2406 Title 18.2;
- 2407 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2408 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
 2409 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2410 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ Chapter 11 (§ ~~18.2-247 4.1-~~
 2411 1100 et seq.) ~~of Chapter 7 of Title 18.2 4.1;~~
- 2412 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2413 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2414 9. Robbery pursuant to § 18.2-58;
- 2415 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 2416 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 2417 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 2418 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 2419 14. A threat pursuant to § 18.2-60.

2420 The failure to provide information regarding the school in which the student who is the subject of
 2421 the petition may be enrolled shall not be grounds for refusing to file a petition.

2422 The information provided to a division superintendent pursuant to this section may be disclosed
2423 only as provided in § 16.1-305.2.

2424 H. The filing of a petition shall not be necessary:

2425 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
2426 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
2427 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.

2428 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
2429 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
2430 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
2431 accident may be located, proceed on a summons in lieu of filing a petition.

2432 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
2433 H of § 16.1-241.

2434 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
2435 commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a
2436 parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a
2437 parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring
2438 the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be
2439 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
2440 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
2441 or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through
2442 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate
2443 shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal
2444 guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation
2445 is to be tried. When a violation of § 4.1-305 or 4.1-1104 is charged by summons, the juvenile shall be
2446 entitled to have the charge referred to intake for consideration of informal proceedings pursuant to
2447 subsection B, provided that such right is exercised by written notification to the clerk not later than 10
2448 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1104 is served, the

2449 officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake
 2450 on a form approved by the Supreme Court and make return of such service to the court. If the officer fails
 2451 to make such service or return, the court shall dismiss the summons without prejudice.

2452 4. In the case of offenses, other than marijuana-related offenses, which, if committed by an adult,
 2453 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake
 2454 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation
 2455 in the same manner as provided by law for adults provided that notice of the summons to appear is mailed
 2456 by the investigating officer within five days of the issuance of the summons to a parent or legal guardian
 2457 of the juvenile.

2458 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
 2459 of the jurisdiction granted it in § 16.1-241.

2460 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
 2461 **impact statement.**

2462 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
 2463 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
 2464 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
 2465 violations, the court before final disposition thereof may require an investigation, which (i) shall include
 2466 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include
 2467 a social history of the physical, mental, and social conditions, including an assessment of any affiliation
 2468 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
 2469 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent
 2470 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by
 2471 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
 2472 Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if
 2473 committed by an adult, or (c) a violation of § 4.1-1104, the court shall order the juvenile to undergo a drug
 2474 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,
 2475 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500

2476 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an
2477 individual employed by or currently under contract to such agencies and who is specifically trained to
2478 conduct such assessments under the supervision of such counselor.

2479 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
2480 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
2481 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
2482 physical, psychological, or economic injury as a result of the violation of law.

2483 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
2484 **offenses; truancy.**

2485 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
2486 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
2487 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
2488 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;
2489 (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
2490 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol
2491 in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public
2492 school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar
2493 ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a
2494 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to
2495 any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's
2496 license. In addition to any other penalty authorized by this section, if the offense involves a violation
2497 designated under clause (i) and the child was transporting a person 17 years of age or younger, the court
2498 shall impose the additional fine and order community service as provided in § 18.2-270. If the offense
2499 involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be
2500 for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such
2501 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a
2502 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or

2503 (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by
2504 a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's
2505 license shall be delayed for a period of six months following the date he reaches the age of 16 and three
2506 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
2507 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
2508 disposition of the delinquency charge until such time as the court disposes of the case pursuant to
2509 subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose
2510 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter
2511 or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving
2512 privileges shall be for a period of not less than 30 days, except when the offense involves possession of a
2513 concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
2514 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
2515 which case the denial of driving privileges shall be for a period of two years unless the offense is
2516 committed by a child under the age of 16 years and three months, in which event the child's ability to
2517 apply for a driver's license shall be delayed for a period of two years following the date he reaches the age
2518 of 16 and three months.

2519 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
2520 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
2521 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
2522 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
2523 of not less than 30 days following the date he reaches the age of 16 and three months.

2524 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
2525 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
2526 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
2527 and three months, as may be appropriate.

2528 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
2529 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

2530 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
2531 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
2532 offense.

2533 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
2534 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
2535 in the physical custody of the court during any period of license denial.

2536 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
2537 which shall preserve a record thereof. The report and the record shall include a statement as to whether
2538 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
2539 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2,
2540 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and
2541 courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless
2542 the proceeding results in an adjudication of guilt pursuant to subsection F.

2543 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
2544 driver's license until such time as is stipulated in the court order or until notification by the court of
2545 withdrawal of the order of denial under subsection E.

2546 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
2547 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
2548 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
2549 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
2550 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
2551 such terms and conditions as the court may set forth.

2552 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
2553 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
2554 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
2555 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
2556 shall be issued for travel to and from home and school when school-provided transportation is available

2557 and no restricted license shall be issued if the finding as to such child involves a violation designated
2558 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
2559 designated in subsection A, a second finding by the court of failure to comply with school attendance and
2560 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
2561 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
2562 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
2563 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
2564 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
2565 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
2566 is guilty of a violation of § 46.2-301.

2567 E. Upon petition made at least 90 days after issuance of the order, the court may review and
2568 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
2569 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
2570 and withdrawn until one year after its issuance.

2571 F. If the finding as to such child involves a first violation designated under clause (vii) of
2572 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
2573 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
2574 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
2575 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
2576 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
2577 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
2578 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
2579 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
2580 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
2581 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
2582 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

2583 **§ 18.2-46.1. Definitions.**

2584 As used in this article, unless the context requires a different meaning:

2585 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or
2586 subsection A of § 19.2-297.1.

2587 "Criminal street gang" means any ongoing organization, association, or group of three or more
2588 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
2589 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
2590 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
2591 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
2592 which is an act of violence, provided such acts were not part of a common act or transaction.

2593 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,
2594 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-95, 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127,
2595 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-
2596 287.4, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation
2597 of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, or 18.2-248, ~~or~~
2598 ~~18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101, or 18.2-248, ~~or~~ ~~18.2-248.1~~; (v) any
2599 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense
2600 under the laws of another state or territory of the United States, the District of Columbia, or the United
2601 States.

2602 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"
2603 "imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.

2604 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used
2605 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
2606 3400 et seq.).

2607 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
2608 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a
2609 controlled substance subject to abuse, and:

2610 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging
2611 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
2612 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
2613 into commerce prior to the initial introduction into commerce of the controlled substance which it is
2614 alleged to imitate; or

2615 2. Which by express or implied representations purports to act like a controlled substance as a
2616 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
2617 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
2618 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2619 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
2620 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
2621 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
2622 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
2623 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
2624 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
2625 and how it is sold to the public.

2626 ~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
2627 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
2628 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
2629 ~~"Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or~~
2630 ~~cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts~~
2631 ~~of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person~~
2632 ~~registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-~~
2633 ~~4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of~~
2634 ~~Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial~~
2635 ~~hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer,~~

2636 ~~ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into~~
2637 ~~one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.~~

2638 ~~E.~~ The term "counterfeit controlled substance" means a controlled substance that, without
2639 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the
2640 trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug
2641 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or
2642 distributor who did in fact so manufacture, process, pack or distribute such drug.

2643 ~~F.—E.~~ The term "tetrahydrocannabinol" means any naturally occurring or synthetic
2644 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such
2645 salts, isomers, and salts of isomers is possible within the specific chemical designation and any
2646 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of
2647 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and
2648 geometric isomers.

2649 ~~G.—F.~~ The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
2650 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
2651 tetrahydrocannabinolic acid.

2652 ~~H.—G.~~ The Department of Forensic Science shall determine the proper methods for detecting the
2653 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100
2654 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or
2655 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
2656 tetrahydrocannabinol.

2657 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**
2658 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**
2659 **prohibited; penalties.**

2660 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for
2661 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or
2662 distribute a controlled substance or an imitation controlled substance.

2663 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
2664 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
2665 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
2666 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,
2667 whether the amount of such consideration was substantially greater than the reasonable value of such pill,
2668 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of
2669 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at
2670 which over-the-counter substances of like chemical composition sell.

2671 C. Except as provided in subsection C1, any person who violates this section with respect to a
2672 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
2673 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
2674 violation, and it is alleged in the warrant, indictment, or information that the person has been before
2675 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
2676 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
2677 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
2678 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
2679 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
2680 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2681 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
2682 in the warrant, indictment or information that he has been before convicted of two or more such offenses
2683 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
2684 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
2685 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not
2686 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
2687 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2688 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
2689 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million

2690 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
2691 imprisonment to be served consecutively with any other sentence:

- 2692 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2693 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 2694 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2695 derivatives of ecgonine or their salts have been removed;
 - 2696 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2697 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2698 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
 - 2699 referred to in subdivisions ~~2a through 2e~~ a, b, and c;
- 2700 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
2701 that contain cocaine base; or
- 2702 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
2703 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
2704 salts of its isomers.

2705 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
2706 shall not be applicable if the court finds that:

- 2707 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2708 b. The person did not use violence or credible threats of violence or possess a firearm or other
2709 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 2710 c. The offense did not result in death or serious bodily injury to any person;
- 2711 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and
2712 was not engaged in a continuing criminal enterprise as defined in subsection I; and
- 2713 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
2714 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2715 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2716 relevant or useful other information to provide or that the Commonwealth already is aware of the

2717 information shall not preclude a determination by the court that the defendant has complied with this
2718 requirement.

2719 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
2720 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
2721 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
2722 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
2723 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing
2724 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined
2725 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
2726 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
2727 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
2728 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
2729 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
2730 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
2731 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
2732 \$500,000.

2733 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
2734 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
2735 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
2736 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
2737 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
2738 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
2739 property owned in whole or in part by the person convicted, the court shall order the person to pay to the
2740 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
2741 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
2742 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that

2743 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
2744 to the guidelines established pursuant to § 32.1-11.7.

2745 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
2746 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
2747 not an inmate in a community correctional facility, local correctional facility or state correctional facility
2748 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from
2749 any consideration received or expected nor to induce the recipient or intended recipient of the controlled
2750 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
2751 of a Class 5 felony.

2752 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
2753 prescription of a person authorized under this article to issue the same, which prescription has not been
2754 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
2755 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
2756 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
2757 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
2758 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
2759 misdemeanor.

2760 E1. Any person who violates this section with respect to a controlled substance classified in
2761 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
2762 248.5, ~~shall be~~ is guilty of a Class 5 felony.

2763 E2. Any person who violates this section with respect to a controlled substance classified in
2764 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

2765 E3. Any person who proves that he gave, distributed or possessed with the intent to give or
2766 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified
2767 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
2768 who is not an inmate in a community correctional facility, local correctional facility or state correctional
2769 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit

2770 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
 2771 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
 2772 guilty of a Class 1 misdemeanor.

2773 F. Any person who violates this section with respect to a controlled substance classified in
 2774 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance
 2775 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

2776 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~
 2777 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6
 2778 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection
 2779 that the defendant believed the imitation controlled substance to actually be a controlled substance.

2780 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to
 2781 manufacture, sell, give or distribute the following:

- 2782 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 2783 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - 2784 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2785 derivatives of ecgonine or their salts have been removed;
 - 2786 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2787 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2788 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
 - 2789 substances referred to in subdivisions a ~~through~~ b, and c;
- 2790 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains
- 2791 cocaine base; or
- 2792 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~
- 2793 ~~or~~
- 2794 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams
- 2795 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
- 2796 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and

2797 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such
2798 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a
2799 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or
2800 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense
2801 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious
2802 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others
2803 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this
2804 section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the
2805 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2806 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2807 relevant or useful other information to provide or that the Commonwealth already is aware of the
2808 information shall not preclude a determination by the court that the defendant has complied with this
2809 requirement.

2810 H1. Any person who was the principal or one of several principal administrators, organizers or
2811 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at
2812 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
2813 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the
2814 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
2815 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
2816 distribute the following during any 12-month period of its existence:

2817 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
2818 detectable amount of heroin;

2819 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
2820 detectable amount of:

2821 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2822 derivatives of ecgonine or their salts have been removed;

2823 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2824 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
2825 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
2826 substances referred to in subdivisions a ~~through~~, b, and c;

2827 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
2828 subdivision 2 ~~which~~ that contains cocaine base; or

2829 ~~4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
2830 ~~detectable amount of marijuana; or~~

2831 ~~5.~~ At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
2832 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
2833 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

2834 A conviction under this section shall be punishable by a fine of not more than \$1 million and
2835 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2836 H2. Any person who was the principal or one of several principal administrators, organizers or
2837 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
2838 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
2839 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
2840 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess
2841 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its
2842 existence:

2843 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2844 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

2845 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2846 derivatives of ecgonine or their salts have been removed;

2847 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
2848 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
2849 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
2850 substances referred to in subdivisions a ~~through~~, b, and c;

2851 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains
2852 cocaine base; or

2853 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~
2854 ~~or~~

2855 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
2856 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
2857 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1
2858 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
2859 punishment shall be made to run consecutively with any other sentence. However, the court may impose
2860 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
2861 with law-enforcement authorities.

2862 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
2863 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
2864 is a part of a continuing series of violations of this section which are undertaken by such person in concert
2865 with five or more other persons with respect to whom such person occupies a position of organizer, a
2866 supervisory position, or any other position of management, and from which such person obtains
2867 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or
2868 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in
2869 association with any criminal street gang as defined in § 18.2-46.1.

2870 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses
2871 any two or more different substances listed below with the intent to manufacture methamphetamine,
2872 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
2873 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
2874 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
2875 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
2876 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
2877 or 2-propanone.

2878 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
2879 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
2880 salts of optical isomers.

2881 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

2882 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
2883 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
2884 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
2885 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
2886 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
2887 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
2888 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
2889 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a
2890 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
2891 other sentence.

2892 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
2893 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
2894 **costs and fees; violations; discharge.**

2895 Whenever any person who has not previously been convicted of any criminal offense under this
2896 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
2897 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
2898 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
2899 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
2900 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
2901 consent of the accused, may defer further proceedings and place him on probation upon terms and
2902 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
2903 of court has been provided with the fingerprint identification information or fingerprints of the person,

2904 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
2905 photograph of the person be taken by a law-enforcement officer.

2906 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
2907 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
2908 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
2909 based upon consideration of the substance abuse assessment. The program or services may be located in
2910 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
2911 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
2912 Developmental Services, by a similar program which is made available through the Department of
2913 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
2914 (iii) an ASAP program certified by the Commission on VASAP.

2915 The court shall require the person entering such program under the provisions of this section to
2916 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
2917 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
2918 indigent.

2919 As a condition of probation, the court shall require the accused (a) to successfully complete
2920 treatment or education program or services, (b) to remain drug and alcohol free during the period of
2921 probation and submit to such tests during that period as may be necessary and appropriate to determine if
2922 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
2923 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
2924 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
2925 probation agency or personnel of any program or agency approved by the supervising probation agency.

2926 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
2927 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
2928 court has been provided with the fingerprint identification information or fingerprints of such person, the
2929 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under

2930 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
2931 section in subsequent proceedings.

2932 Notwithstanding any other provision of this section, whenever a court places an individual on
2933 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
2934 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
2935 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

2936 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

2937 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
2938 consumption or use of a controlled substance, alcohol, or any combination of such substances.

2939 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
2940 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
2941 marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant
2942 to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia
2943 pursuant to § 54.1-3466 if:

2944 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
2945 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
2946 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
2947 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
2948 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
2949 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,
2950 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the
2951 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing
2952 an overdose while another individual seeks or obtains emergency medical attention in accordance with
2953 this subdivision;

2954 2. Such individual remains at the scene of the overdose or at any alternative location to which he
2955 or the person requiring emergency medical attention has been transported until a law-enforcement officer
2956 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose

2957 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
2958 forth herein;

2959 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
2960 the overdose; and

2961 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
2962 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or
2963 assistance.

2964 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
2965 medical attention for himself or another individual, to a person experiencing an overdose when another
2966 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency
2967 care or assistance to an individual experiencing an overdose while another person seeks or obtains
2968 emergency medical attention during the execution of a search warrant or during the conduct of a lawful
2969 search or a lawful arrest.

2970 D. This section does not establish protection from arrest or prosecution for any individual or
2971 offense other than those listed in subsection B.

2972 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
2973 determined that the person arrested was immune from prosecution under this section.

2974 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

2975 No school nurse employed by a local school board, person employed by a local health department
2976 who is assigned to the public school pursuant to an agreement between the local health department and
2977 the school board, or other person employed by or contracted with a local school board to deliver health-
2978 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-~~
2979 ~~248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
2980 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student
2981 who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

2982 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
2983 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

2984 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
2985 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
2986 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
2987 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a
2988 patient or resident who has been issued a valid written certification for the use of cannabis oil in
2989 accordance with § 4.1-1601.

2990 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
2991 **Department of Agriculture and Consumer Services, Department of Law employees.**

2992 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
2993 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,
2994 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of
2995 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
2996 18.2-248,~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial
2997 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations
2998 promulgated by the Board of ~~Pharmacy~~ and the Board of Agriculture and Consumer Services.

2999 B. No employee of the Department of Agriculture and Consumer Services or of the Department of
3000 Law shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §~~18.2-247~~, 18.2-248, 18.2-
3001 248.01,~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance
3002 containing tetrahydrocannabinol when possession of industrial hemp or any substance containing
3003 tetrahydrocannabinol is necessary in the performance of his duties.

3004 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
3005 **testing, and treatment or education.**

3006 The trial judge or court trying the case of any person found guilty of a criminal violation of any
3007 law concerning the use, in any manner, of drugs, controlled substances, narcotics,~~marijuana~~, noxious
3008 chemical substances and like substances shall condition any suspended sentence by first requiring such
3009 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
3010 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing

3011 shall be conducted by the supervising probation agency or by personnel of any program or agency
3012 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
3013 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
3014 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance
3015 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
3016 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
3017 Department of Behavioral Health and Developmental Services, by a similar program or services available
3018 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
3019 imposes a sentence of 12 months or less, by a similar program or services available through a local or
3020 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
3021 ASAP program certified by the Commission on VASAP.

3022 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3023 A. Whenever any person who has not previously been convicted of any criminal offense under this
3024 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana,~~
3025 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
3026 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
3027 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana,~~ noxious chemical
3028 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
3029 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
3030 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
3031 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
3032 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
3033 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
3034 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
3035 Health and Developmental Services or by a similar program or services available through the Department
3036 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
3037 12 months or less, by a similar program or services available through a local or regional jail, a local

3038 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
3039 certified by the Commission on VASAP.

3040 B. The court trying the case of any person alleged to have committed any criminal offense
3041 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in
3042 which the commission of the offense was motivated by or closely related to the use of drugs and
3043 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
3044 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
3045 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
3046 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
3047 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
3048 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
3049 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
3050 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
3051 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
3052 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
3053 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
3054 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
3055 to the effect that the confined person has successfully responded to treatment, the court may release such
3056 confined person prior to the termination of the period of time for which such person was confined and
3057 may suspend the remainder of the term upon such conditions as the court may prescribe.

3058 C. The court trying a case in which commission of the criminal offense was related to the
3059 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
3060 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
3061 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
3062 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
3063 Developmental Services, if space is available in such facility, for a period of time not in excess of the
3064 maximum term of imprisonment specified as the penalty for conviction. Confinement under such

3065 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
3066 committed may be convicted of escape if he leaves the place of commitment without authority. The court
3067 may revoke such commitment at any time and transfer the person to an appropriate state or local
3068 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
3069 to the effect that the confined person has successfully responded to treatment, the court may release such
3070 confined person prior to the termination of the period of time for which such person was confined and
3071 may suspend the remainder of the term upon such conditions as the court may prescribe.

3072 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3073 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1~~, it
3074 shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
3075 distribute any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~ to any person under 18 years of age
3076 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
3077 distribution of any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~. Any person violating this
3078 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10
3079 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
3080 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
3081 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
3082 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3083 B. It shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally
3084 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
3085 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation
3086 controlled substance. Any person violating this provision shall be is guilty of a Class 6 felony.

3087 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use**
3088 **in administering controlled substances to minors; penalty.**

3089 It shall be is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
3090 to a minor any book, pamphlet, periodical₂ or other printed matter ~~which~~ that he knows advertises for sale

3091 any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
3092 administering, preparing, or growing ~~marijuana~~ or a controlled substance.

3093 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
3094 **penalty.**

3095 A. It ~~shall be~~ is unlawful for any person to manufacture, sell or distribute or possess with intent to
3096 sell, give, or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

3097 1. Upon the property, including buildings and grounds, of any public or private elementary or
3098 secondary school, any institution of higher education, or any clearly marked licensed child day center as
3099 defined in § 22.1-289.02;

3100 2. Upon public property or any property open to public use within 1,000 feet of the property
3101 described in subdivision 1;

3102 3. On any school bus as defined in § 46.2-100;

3103 4. Upon a designated school bus stop, or upon either public property or any property open to public
3104 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting
3105 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

3106 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
3107 recreation or community center facility or any public library; or

3108 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
3109 property open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the
3110 provisions of this section if the person possessed the controlled substance, or imitation controlled
3111 substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the
3112 person intended to sell, give, or distribute the controlled substance, or imitation controlled substance, ~~or~~
3113 ~~marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

3114 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
3115 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
3116 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
3117 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§

3118 54.1-3400 et seq.) ~~or more than one half ounce of marijuana~~ shall be punished by a mandatory minimum
3119 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
3120 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
3121 individual and not with intent to profit thereby from any consideration received or expected nor to induce
3122 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
3123 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

3124 C. If a person commits an act violating the provisions of this section, and the same act also violates
3125 another provision of law that provides for penalties greater than those provided for by this section, then
3126 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
3127 law or the imposition of any penalties provided for thereby.

3128 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3129 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
3130 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
3131 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
3132 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
3133 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
3134 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
3135 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
3136 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
3137 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
3138 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3139 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3140 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
3141 warehouse, dwelling house, apartment or building or structure of any kind ~~which~~ that is (i) substantially
3142 altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful
3143 entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing
3144 or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be

3145 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
3146 of a Class 5 felony.

3147 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**
3148 **fraud, deceit or forgery.**

3149 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or
3150 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
3151 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
3152 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
3153 giving of a false address.

3154 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any
3155 information from, or willfully make a false statement in, any prescription, order, report, record, or other
3156 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

3157 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of
3158 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or issued
3159 to another person.

3160 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
3161 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
3162 physician, dentist, veterinarian or other authorized person.

3163 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false
3164 or forged written order.

3165 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
3166 containing any controlled substance.

3167 G. This section shall not apply to officers and employees of the United States, of this
3168 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their
3169 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
3170 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
3171 investigative, research or analytical purposes and who are acting in the course of their employment;

3172 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic
3173 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized
3174 representatives file with the Board such information as the Board may deem appropriate.

3175 H. Except as otherwise provided in this subsection, any person who shall violate any provision
3176 herein ~~shall be~~ is guilty of a Class 6 felony.

3177 Whenever any person who has not previously been convicted of any offense under this article or
3178 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
3179 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
3180 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
3181 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
3182 finding of guilt, the court may place him on probation upon terms and conditions.

3183 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
3184 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
3185 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
3186 any other judicial circuit as the court may provide. The services shall be provided by a program certified
3187 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
3188 the person entering such program under the provisions of this section to pay all or part of the costs of the
3189 program, including the costs of the screening, evaluation, testing and education, based upon the person's
3190 ability to pay unless the person is determined by the court to be indigent.

3191 As a condition of supervised probation, the court shall require the accused to remain drug free
3192 during the period of probation and submit to such tests during that period as may be necessary and
3193 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
3194 any screening, evaluation, and education program to which the person is referred or by the supervising
3195 agency.

3196 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
3197 report to the original arresting law-enforcement agency to submit to fingerprinting.

3198 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
 3199 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
 3200 shall find the defendant guilty of a Class 1 misdemeanor.

3201 **§ 18.2-265.1. Definition.**

3202 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
 3203 of any kind which are either designed for use or which are intended by the person charged with violating
 3204 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
 3205 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
 3206 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
 3207 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

3208 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
 3209 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled
 3210 substance can be derived;

3211 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
 3212 producing, processing, or preparing ~~marijuana~~ or controlled substances;

3213 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
 3214 or any species of plant ~~which~~ that is a controlled substance;

3215 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
 3216 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
 3217 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3218 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 3219 controlled substances;

3220 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
 3221 or designed for use in cutting controlled substances;

3222 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~
 3223 ~~from, or in otherwise cleaning or refining, marijuana;~~

- 3224 ~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
3225 compounding controlled substances;
- 3226 ~~9-8.~~ Capsules, balloons, envelopes, and other containers intended for use or designed for use in
3227 packaging small quantities of ~~marijuana~~ or controlled substances;
- 3228 ~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing
3229 ~~marijuana~~ or controlled substances;
- 3230 ~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in
3231 parenterally injecting controlled substances into the human body;
- 3232 ~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
3233 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 3234 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
3235 screens, ~~hashish heads~~, or punctured metal bowls;
- 3236 b. Water pipes;
- 3237 c. Carburetion tubes and devices;
- 3238 d. Smoking and carburetion masks;
- 3239 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that
3240 has become too small or too short to be held in the hand;
- 3241 f. Miniature cocaine spoons, and cocaine vials;
- 3242 g. Chamber pipes;
- 3243 h. Carburetor pipes;
- 3244 i. Electric pipes;
- 3245 j. Air-driven pipes;
- 3246 k. Chillums;
- 3247 l. Bongs;
- 3248 m. Ice pipes or chillers.
- 3249 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3250 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
3251 other relevant evidence, the following:

- 3252 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 3253 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
3254 known to the accused;
- 3255 3. Instructions, oral or written, provided with the object concerning its use;
- 3256 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
- 3257 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 3258 6. The manner in which the object is displayed for sale;
- 3259 7. Whether the accused is a legitimate supplier of like or related items to the community, such as
3260 a licensed distributor or dealer of tobacco products;
- 3261 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
3262 business enterprise;
- 3263 9. The existence and scope of legitimate uses for the object in the community;
- 3264 10. Expert testimony concerning its use or the purpose for which it was designed; and
- 3265 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
3266 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
3267 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is
3268 intended for use or designed for use as drug paraphernalia.

3269 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3270 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
3271 circumstances where one reasonably should know, that it is either designed for use or intended by such
3272 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
3273 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
3274 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a Class
3275 1 misdemeanor.

3276 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
3277 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class
3278 6 felony.

3279 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor
3280 ~~shall be~~ is guilty of a Class 1 misdemeanor.

3281 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3282 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony
3283 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife
3284 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
3285 is guilty of a Class 4 felony.

3286 **§ 18.2-308.012. Prohibited conduct.**

3287 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
3288 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
3289 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
3290 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of
3291 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
3292 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
3293 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
3294 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
3295 apply for a concealed handgun permit for a period of five years.

3296 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
3297 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption
3298 has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an
3299 alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises
3300 of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor.
3301 However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

3302 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3303 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
3304 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously
3305 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
3306 constitutes a separate and distinct felony.

3307 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
3308 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with
3309 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class
3310 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be
3311 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate
3312 and apart from, and shall be made to run consecutively with, any punishment received for the commission
3313 of the primary felony.

3314 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
3315 or other firearm or display such weapon in a threatening manner while committing or attempting to commit
3316 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
3317 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-
3318 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and
3319 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
3320 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
3321 from, and shall be made to run consecutively with, any punishment received for the commission of the
3322 primary felony.

3323 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
3324 **penalties.**

3325 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
3326 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
3327 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
3328 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the

3329 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-
3330 6555, he is guilty of a Class 1 misdemeanor.

3331 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
3332 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
3333 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
3334 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
3335 misdemeanor.

3336 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
3337 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer,
3338 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any
3339 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~
3340 ~~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~~
3341 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3342 D. Any person who knowingly and willfully makes any materially false statement or representation
3343 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
3344 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3345 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
3346 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
3347 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
3348 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
3349 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
3350 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such
3351 communication knows or should know that he is not free to leave.

3352 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3353 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
3354 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
3355 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the

3356 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled
3357 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana
3358 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver
3359 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
3360 explosives of any nature is guilty of a Class 3 felony.

3361 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3362 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
3363 **authorizing interception of communications.**

3364 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates
3365 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
3366 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
3367 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
3368 communications by the Department of State Police, when such interception may reasonably be expected
3369 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
3370 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)
3371 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
3372 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
3373 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit
3374 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for
3375 authorization for the observation or monitoring of the interception by a police department of a county or
3376 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be
3377 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

3378 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3379 1. In the case of an application for a wire or electronic interception, a judge of competent
3380 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable
3381 cause to believe that an offense was committed, is being committed, or will be committed or the person
3382 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic

3383 communication system, maintain an address or a post office box, or are making the communication within
3384 the territorial jurisdiction of the court.

3385 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have
3386 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
3387 offense was committed, is being committed, or will be committed or the physical location of the oral
3388 communication to be intercepted is within the territorial jurisdiction of the court.

3389 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
3390 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
3391 jurisdiction where the order is entered, regardless of the physical location or the method by which the
3392 communication is captured or routed to the monitoring location.

3393 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3394 A. The following officers shall have the powers of arrest as provided in this section:

- 3395 1. Members of the State Police force of the Commonwealth;
- 3396 2. Sheriffs of the various counties and cities, and their deputies;
- 3397 3. Members of any county police force or any duly constituted police force of any city or town of
3398 the Commonwealth;
- 3399 4. The Commissioner, members and employees of the Marine Resources Commission granted the
3400 power of arrest pursuant to § 28.2-900;
- 3401 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3402 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
3403 petty officers authorized under § 29.1-205 to make arrests;
- 3404 7. Conservation officers appointed pursuant to § 10.1-115;
- 3405 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
3406 appointed pursuant to § 46.2-217;
- 3407 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
3408 Control Authority;

3409 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
3410 23.1; and

3411 11. Members of the Division of Capitol Police.

3412 B. Such officers may arrest without a warrant any person who commits any crime in the presence
3413 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
3414 committed a felony not in his presence.

3415 Such officers may arrest without a warrant any person whom the officer has probable cause to
3416 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
3417 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
3418 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
3419 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
3420 officer.

3421 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
3422 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
3423 in such accident has been transported, or in the apprehension of any person charged with the theft of any
3424 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
3425 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
3426 crime has been committed by any person then and there present, apprehend such person without a warrant
3427 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
3428 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
3429 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

3430 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
3431 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
3432 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
3433 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
3434 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
3435 within three hours of the alleged offense, arrest without a warrant at any location any person whom the

3436 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
3437 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

3438 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in
3439 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,
3440 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
3441 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
3442 reasonably accurate description of such person wanted and the crime alleged.

3443 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not
3444 committed in his presence when the officer receives a radio message from his department or other law-
3445 enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

3446 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
3447 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
3448 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
3449 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
3450 when such property is located on premises used for business or commercial purposes, or a similar local
3451 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
3452 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
3453 section for a misdemeanor violation involving shoplifting.

3454 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3455 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
3456 19.2-81, persons for crimes involving:

- 3457 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3458 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3459 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or ~~§ 18.2-~~
3460 474.1; and
- 3461 ~~(d)~~ 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,
3462 or security of the population of a correctional institution.

3463 § 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

3464 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3465 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
3466 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
3467 or any other employee in any local school division in the Commonwealth for a felony or a Class 1
3468 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the division
3469 safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in which such
3470 person is employed as soon as practicable but no later than 48 hours after such arrest. The contents of the
3471 report required pursuant to this subsection shall be utilized by the local school division solely to implement
3472 the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

3473 B. The report required pursuant to subsection A shall be transmitted to the division safety official
3474 (i) via certified mail, return receipt requested, to the mailing address identified by the division
3475 superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and
3476 email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any
3477 certified mail return receipt shall be retained in the case file.

3478 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to
3479 Virginia Employment Commission records, each arresting official shall request in writing that the Virginia
3480 Employment Commission provide the name of the current employer of each person arrested for an offense
3481 set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

3482 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3483 officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as
3484 practicable, with the division superintendent of the school division in which the student is enrolled upon
3485 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
3486 any local school division in the Commonwealth for:

3487 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
3488 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;

3489 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

- 3490 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
3491 Title 18.2;
- 3492 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 3493 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
3494 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 3495 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (~~§ 18.2-247 4.1-~~
3496 1100 et seq.) ~~of Chapter 7 of Title 18.2~~ 4.1;
- 3497 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 3498 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 3499 9. Robbery pursuant to § 18.2-58;
- 3500 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 3501 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
- 3502 12. An act of violence by a mob pursuant to § 18.2-42.1; or
- 3503 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.
- 3504 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**
- 3505 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article
3506 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement
3507 officer shall be permitted to testify as to the results of field tests that have been approved by the Department
3508 of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§
3509 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing
3510 is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§§ 4.1-600 and~~
3511 18.2-247.
- 3512 B. In any trial for a violation of ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer
3513 shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable
3514 by the Department of Forensic Science pursuant to regulations adopted in accordance with the
3515 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity
3516 of which is at issue, is marijuana provided the defendant has been given written notice of his right to

3517 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall
3518 be provided to the defendant prior to trial.

3519 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or
3520 the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he
3521 may, by motion prior to trial before the court in which the charge is pending, request such a chemical
3522 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of
3523 Forensic Science in accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order
3524 the method of custody, transfer, and return of evidence submitted for chemical analysis.

3525 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3526 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
3527 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
3528 the final judgment order, provided substantial assistance in investigating or prosecuting another person
3529 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-
3530 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-
3531 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
3532 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
3533 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
3534 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
3535 In determining whether the defendant has provided substantial assistance pursuant to the provisions of
3536 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the
3537 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
3538 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
3539 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger
3540 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the
3541 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,
3542 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not
3543 known to the defendant until more than one year after entry of the final judgment order, (2) information

3544 provided by the defendant within one year of entry of the final judgment order but that did not become
3545 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
3546 information the usefulness of which could not reasonably have been anticipated by the defendant until
3547 more than one year after entry of the final judgment order and which was promptly provided to the
3548 Commonwealth by the defendant after its usefulness was reasonably apparent.

3549 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
3550 **transactions.**

3551 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
3552 the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter
3553 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles,
3554 and all other personal and real property of any kind or character, used in substantial connection with (a)
3555 the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or
3556 distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or~~
3557 ~~possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-~~
3558 ~~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
3559 value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-
3560 248 or for marijuana in violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in
3561 violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to
3562 such an exchange, together with any interest or profits derived from the investment of such money or other
3563 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the
3564 minimum prescribed punishment for the violation is a term of not less than five years.

3565 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
3566 Chapter 22.1 (§ 19.2-386.1 et seq.).

3567 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3568 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
3569 lawful possession of which is not established or the title to which cannot be ascertained, which have come
3570 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-

3571 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
3572 as follows:

3573 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
3574 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
3575 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
3576 Police, or to such police department or sheriff's office for research and training purposes and for
3577 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
3578 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3579 2. In the event no application is made under subdivision 1, the court shall order the destruction of
3580 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
3581 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
3582 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
3583 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
3584 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
3585 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,
3586 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
3587 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal
3588 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
3589 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or
3590 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in
3591 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written
3592 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a
3593 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,
3594 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the
3595 order is directed.

3596 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter
3597 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

3598 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-
3599 386.24.

3600 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
3601 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
3602 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
3603 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not
3604 result in the requesting agency's exceeding the limits allowed by this subsection.

3605 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,
3606 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
3607 inventory of such substance on a monthly basis, which shall include a description and weight of the
3608 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research
3609 and training purposes. A written report outlining the details of the inventory shall be made to the chief
3610 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency
3611 shall detail the substances that were used for research and training pursuant to a court order in the
3612 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with
3613 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,
3614 and manner of destruction.

3615 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3616 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
3617 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
3618 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds
3619 of the substance randomly selected from the seized substance for representative purposes as evidence and
3620 destroy the remainder of the seized substance.

3621 Before any destruction is carried out under this section, the law-enforcement agency shall cause
3622 the material seized to be photographed with identification case numbers or other means of identification
3623 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
3624 party, if known, or his attorney, at least five days in advance that the photography will take place and that

3625 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
3626 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
3627 destruction of the time and place the destruction will occur. Any notice required under the provisions of
3628 this section shall be by first-class mail to the last known address of the person required to be notified. In
3629 addition to the substance retained for representative purposes as evidence, all photographs and records
3630 made under this section and properly identified shall be admissible in any court proceeding for any
3631 purposes for which the seized substance itself would have been admissible.

3632 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
3633 **substances, etc.**

3634 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
3635 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
3636 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
3637 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title
3638 18.2. The court in its order may make provision for ensuring integrity of these items until further order of
3639 the court.

3640 **§ 19.2-389. Dissemination of criminal history record information.**

3641 A. Criminal history record information shall be disseminated, whether directly or through an
3642 intermediary, only to:

3643 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
3644 purposes of the administration of criminal justice and the screening of an employment application or
3645 review of employment by a criminal justice agency with respect to its own employees or applicants, and
3646 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
3647 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
3648 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
3649 of this subdivision, criminal history record information includes information sent to the Central Criminal
3650 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
3651 time employee of the State Police, a police department or sheriff's office that is a part of or administered

3652 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
3653 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
3654 the purposes of the administration of criminal justice;

3655 2. Such other individuals and agencies that require criminal history record information to
3656 implement a state or federal statute or executive order of the President of the United States or Governor
3657 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
3658 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
3659 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
3660 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3661 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
3662 provide services required for the administration of criminal justice pursuant to that agreement which shall
3663 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
3664 security and confidentiality of the data;

3665 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
3666 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
3667 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
3668 security of the data;

3669 5. Agencies of state or federal government that are authorized by state or federal statute or
3670 executive order of the President of the United States or Governor to conduct investigations determining
3671 employment suitability or eligibility for security clearances allowing access to classified information;

3672 6. Individuals and agencies where authorized by court order or court rule;

3673 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
3674 owned, operated or controlled by any political subdivision, and any public service corporation that
3675 operates a public transit system owned by a local government for the conduct of investigations of
3676 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
3677 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a

3678 conviction record would be compatible with the nature of the employment, permit, or license under
3679 consideration;

3680 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
3681 of ~~Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered
3682 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
3683 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
3684 with a conviction record would be compatible with the nature of the employment under consideration;

3685 8. Public or private agencies when authorized or required by federal or state law or interstate
3686 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
3687 members of that individual's household, with whom the agency is considering placing a child or from
3688 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
3689 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
3690 not be further disseminated to any party other than a federal or state authority or court as may be required
3691 to comply with an express requirement of law;

3692 9. To the extent permitted by federal law or regulation, public service companies as defined in §
3693 56-1, for the conduct of investigations of applicants for employment when such employment involves
3694 personal contact with the public or when past criminal conduct of an applicant would be incompatible
3695 with the nature of the employment under consideration;

3696 10. The appropriate authority for purposes of granting citizenship and for purposes of international
3697 travel, including, but not limited to, issuing visas and passports;

3698 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
3699 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
3700 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
3701 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
3702 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
3703 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
3704 program as defined in § 15.2-1713.1;

3705 12. Administrators and board presidents of and applicants for licensure or registration as a child
3706 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
3707 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
3708 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
3709 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
3710 not be further disseminated by the facility or agency to any party other than the data subject, the
3711 Commissioner of Social Services' representative or a federal or state authority or court as may be required
3712 to comply with an express requirement of law for such further dissemination; however, nothing in this
3713 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from
3714 issuing written certifications regarding the results of a background check that was conducted before July
3715 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3716 13. The school boards of the Commonwealth for the purpose of screening individuals who are
3717 offered or who accept public school employment and those current school board employees for whom a
3718 report of arrest has been made pursuant to § 19.2-83.1;

3719 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
3720 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
3721 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
3722 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3723 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
3724 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
3725 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
3726 162.9:1, subject to the limitations set out in subsection E;

3727 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
3728 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
3729 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3730 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
3731 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
3732 forth in § 4.1-622;

3733 18. The State Board of Elections and authorized officers and employees thereof and general
3734 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
3735 respect to voter registration, limited to any record of felony convictions;

3736 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or
3737 his designees for individuals who are committed to the custody of or being evaluated by the Commissioner
3738 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-
3739 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,
3740 treatment, or discharge planning;

3741 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
3742 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
3743 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3744 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
3745 the Department of Education, or the Department of Behavioral Health and Developmental Services for
3746 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
3747 services;

3748 22. The Department of Behavioral Health and Developmental Services and facilities operated by
3749 the Department for the purpose of determining an individual's fitness for employment pursuant to
3750 departmental instructions;

3751 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
3752 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
3753 records information on behalf of such governing boards or administrators pursuant to a written agreement
3754 with the Department of State Police;

3755 24. Public institutions of higher education and nonprofit private institutions of higher education
3756 for the purpose of screening individuals who are offered or accept employment;

3757 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
3758 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
3759 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
3760 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
3761 history record information obtained pursuant to this section or otherwise use any record of an individual
3762 beyond the purpose that such disclosure was made to the threat assessment team;

3763 26. Executive directors of community services boards or the personnel director serving the
3764 community services board for the purpose of determining an individual's fitness for employment, approval
3765 as a sponsored residential service provider, permission to enter into a shared living arrangement with a
3766 person receiving medical assistance services pursuant to a waiver, or permission for any person under
3767 contract with the community services board to serve in a direct care position on behalf of the community
3768 services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3769 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
3770 determining an individual's fitness for employment, approval as a sponsored residential service provider,
3771 permission to enter into a shared living arrangement with a person receiving medical assistance services
3772 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
3773 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-
3774 506.1, and 37.2-607;

3775 28. The Commissioner of Social Services for the purpose of locating persons who owe child
3776 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
3777 the name, address, demographics and social security number of the data subject shall be released;

3778 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
3779 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
3780 purpose of determining if any applicant who accepts employment in any direct care position or requests
3781 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
3782 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
3783 under contract with the provider to serve in a direct care position has been convicted of a crime that affects

3784 his fitness to have responsibility for the safety and well-being of individuals with mental illness,
3785 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
3786 37.2-607;

3787 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
3788 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
3789 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3790 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
3791 Committee for Courts of Justice for the purpose of determining if any person being considered for election
3792 to any judgeship has been convicted of a crime;

3793 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
3794 determining an individual's fitness for employment in positions designated as sensitive under Department
3795 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

3796 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
3797 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
3798 Violent Predators Act (§ 37.2-900 et seq.);

3799 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
3800 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
3801 companies, for the conduct of investigations of applications for employment or for access to facilities, by
3802 contractors, leased laborers, and other visitors;

3803 35. Any employer of individuals whose employment requires that they enter the homes of others,
3804 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

3805 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
3806 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
3807 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
3808 subject to the restriction that the data shall not be further disseminated by the agency to any party other
3809 than a federal or state authority or court as may be required to comply with an express requirement of law
3810 for such further dissemination, subject to limitations set out in subsection G;

3811 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
3812 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
3813 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
3814 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
3815 administered by the Department of Medical Assistance Services;

3816 38. The State Corporation Commission for the purpose of investigating individuals who are current
3817 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
3818 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
3819 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
3820 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
3821 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
3822 applicant or its designee;

3823 39. The Department of Professional and Occupational Regulation for the purpose of investigating
3824 individuals for initial licensure pursuant to § 54.1-2106.1;

3825 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
3826 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
3827 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
3828 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

3829 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

3830 42. The State Treasurer for the purpose of determining whether a person receiving compensation
3831 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

3832 43. The Department of Education or its agents or designees for the purpose of screening individuals
3833 seeking to enter into a contract with the Department of Education or its agents or designees for the
3834 provision of child care services for which child care subsidy payments may be provided;

3835 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
3836 of a juvenile's household when completing a predispositional or postdispositional report required by §
3837 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

3838 45. The State Corporation Commission, for the purpose of screening applicants for insurance
3839 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

3840 46. Administrators and board presidents of and applicants for licensure or registration as a child
3841 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
3842 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
3843 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
3844 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
3845 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
3846 representative, or a federal or state authority or court as may be required to comply with an express
3847 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed
3848 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications
3849 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §
3850 22.1-289.039;

3851 47. The National Center for Missing and Exploited Children for the purpose of screening
3852 individuals who are offered or accept employment or will be providing volunteer or contractual services
3853 with the National Center for Missing and Exploited Children; and

3854 48. Other entities as otherwise provided by law.

3855 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
3856 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
3857 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
3858 designated in the order on whom a report has been made under the provisions of this chapter.

3859 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
3860 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
3861 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
3862 copy of conviction data covering the person named in the request to the person making the request;
3863 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
3864 making of such request. A person receiving a copy of his own conviction data may utilize or further

3865 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
3866 subject, the person making the request shall be furnished at his cost a certification to that effect.

3867 B. Use of criminal history record information disseminated to noncriminal justice agencies under
3868 this section shall be limited to the purposes for which it was given and may not be disseminated further,
3869 except as otherwise provided in subdivision A 46.

3870 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
3871 history record information for employment or licensing inquiries except as provided by law.

3872 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
3873 Exchange prior to dissemination of any criminal history record information on offenses required to be
3874 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
3875 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
3876 time is of the essence and the normal response time of the Exchange would exceed the necessary time
3877 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
3878 history record information that is required to be reported to the Central Criminal Records Exchange may
3879 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
3880 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
3881 justice agency maintaining the record as required by § 15.2-1722.

3882 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
3883 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
3884 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

3885 F. Criminal history information provided to licensed assisted living facilities and licensed adult
3886 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
3887 for any offense specified in § 63.2-1720.

3888 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
3889 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
3890 of barrier crime in § 19.2-392.02.

3891 H. Upon receipt of a written request from an employer or prospective employer, the Central
3892 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
3893 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
3894 in the request to the employer or prospective employer making the request, provided that the person on
3895 whom the data is being obtained has consented in writing to the making of such request and has presented
3896 a photo-identification to the employer or prospective employer. In the event no conviction data is
3897 maintained on the person named in the request, the requesting employer or prospective employer shall be
3898 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
3899 forms provided by the Exchange.

3900 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
3901 information pursuant to the rules of court for obtaining discovery or for review by the court.

3902 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
3903 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
3904 **dissemination of criminal history record information; prohibited practices by employers,**
3905 **educational institutions, and state and local governments; penalty.**

3906 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor
3907 violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged
3908 under-~~§§~~ former § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-
3909 251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or
3910 otherwise disclosed, provided that such records may be disseminated (i) to make the determination as
3911 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of
3912 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article
3913 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to §
3914 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to
3915 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established
3916 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173
3917 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving

3918 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
3919 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
3920 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to
3921 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi)
3922 to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a
3923 part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible
3924 for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
3925 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the
3926 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time
3927 employee of the State Police or a police department or sheriff's office that is a part of or administered by
3928 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-
3929 time or part-time employment with the State Police or a police department or sheriff's office that is a part
3930 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health
3931 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with
3932 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time
3933 or part-time employee of the Department of Forensic Science for the purpose of screening any person for
3934 full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-
3935 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety
3936 official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for
3937 the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
3938 medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of
3939 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as
3940 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor
3941 Carrier Safety Administration.

3942 B. An employer or educational institution shall not, in any application, interview, or otherwise,
3943 require an applicant for employment or admission to disclose information concerning any arrest, criminal
3944 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction

3945 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
3946 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
3947 any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or
3948 conviction is not open for public inspection pursuant to subsection A.

3949 C. Agencies, officials, and employees of the state and local governments shall not, in any
3950 application, interview, or otherwise, require an applicant for a license, permit, registration, or
3951 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
3952 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
3953 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
3954 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
3955 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
3956 inspection pursuant to subsection A. Such an application may not be denied solely because of the
3957 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

3958 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
3959 violation.

3960 **§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
3961 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
3962 **dissemination of criminal history record information; prohibited practices by employers,**
3963 **educational institutions, and state and local governments; penalty.**

3964 A. Criminal history record information contained in the Central Criminal Records Exchange,
3965 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of
3966 former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under ~~§§~~ former
3967 § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be
3968 open for public inspection or otherwise disclosed, provided that such records may be disseminated and
3969 used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility
3970 to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in
3971 the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for

3972 its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department
3973 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
3974 thereof for the purpose of screening any person for full-time or part-time employment with, or to be a
3975 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
3976 by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his
3977 designee for the purpose of screening any person who applies to be a volunteer with or an employee of an
3978 emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time
3979 employee of the Department of Forensic Science for the purpose of screening any person for full-time or
3980 part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer
3981 of a locality, or his designee who shall be an individual employed as a public safety official of the locality,
3982 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of
3983 screening any person who applies to be a volunteer with or an employee of an emergency medical services
3984 agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of
3985 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R.
3986 § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
3987 Administration; (ix) to any employer or prospective employer or its designee where federal law requires
3988 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective
3989 employer or its designee where the position that a person is applying for, or where access to the premises
3990 in or upon which any part of the duties of such position is performed or is to be performed, is subject to
3991 any requirement imposed in the interest of the national security of the United States under any security
3992 program in effect pursuant to or administered under any contract with, or statute or regulation of, the
3993 United States or any Executive Order of the President; (xi) to any person authorized to engage in the
3994 collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting
3995 such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set
3996 forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court,
3997 Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office
3998 of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee

3999 for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person
4000 for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the
4001 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a
4002 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
4003 employer or prospective employer or its designee that is allowed access to such sealed records in
4004 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant
4005 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)
4006 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the
4007 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,
4008 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as
4009 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized
4010 by law; (xxi) to the Department of Social Services or any local department of social services for purposes
4011 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating
4012 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney
4013 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the
4014 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv)
4015 to the person arrested, charged, or convicted of the offense that was sealed.

4016 B. Except as provided in subsection C, agencies, officials, and employees of state and local
4017 governments, private employers that are not subject to federal laws or regulations in the hiring process,
4018 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for
4019 employment or admission to disclose information concerning any arrest, criminal charge, or conviction
4020 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
4021 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
4022 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
4023 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open
4024 for public inspection pursuant to subsection A.

4025 C. The provisions of subsection B shall not apply if:

4026 1. The person is applying for full-time employment or part-time employment with, or to be a
4027 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
4028 by the Commonwealth or any political subdivision thereof;

4029 2. This Code requires the employer to make such an inquiry;

4030 3. Federal law requires the employer to make such an inquiry;

4031 4. The position, or access to the premises in or upon which any part of the duties of such position
4032 is performed or is to be performed, is subject to any requirement imposed in the interest of the national
4033 security of the United States under any security program in effect pursuant to or administered under any
4034 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

4035 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §
4036 9.1-134 allow the employer to access such sealed records.

4037 D. Agencies, officials, and employees of the state and local governments shall not, in any
4038 application, interview, or otherwise, require an applicant for a license, permit, registration, or
4039 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
4040 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
4041 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
4042 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
4043 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
4044 inspection pursuant to subsection A. Such an application may not be denied solely because of the
4045 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4046 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,
4047 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal
4048 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
4049 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4050 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4051 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4052 conviction is not open for public inspection pursuant to subsection A. Such an application may not be

4053 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4054 criminal charge, or conviction.

4055 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as
4056 defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge,
4057 or conviction against him when the record relating to such arrest, criminal charge, or conviction is not
4058 open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4059 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4060 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4061 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
4062 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4063 criminal charge, or conviction.

4064 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
4065 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
4066 subsections, such application shall include, or such entity or person shall provide, a notice to the applicant
4067 that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection
4068 A does not have to be disclosed in the application. Such notice need not be included on any application
4069 for one or more of the purposes set forth in subsection C.

4070 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
4071 conviction that is not open for public inspection pursuant to subsection A or any information from such
4072 records among law-enforcement officers and attorneys when such disclosures are made by such officers
4073 or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure
4074 or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth
4075 when related to the prosecution of a separate crime.

4076 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
4077 each violation.

4078 **§ 19.2-392.02. National criminal background checks by businesses and organizations**
4079 **regarding employees or volunteers providing care to children or the elderly or disabled.**

4080 A. For purposes of this section:

4081 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,

4082 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

4083 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,

4084 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-

4085 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-

4086 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,

4087 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

4088 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,

4089 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-

4090 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-

4091 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-

4092 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

4093 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

4094 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,

4095 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-

4096 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

4097 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-

4098 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-

4099 480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the

4100 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-

4101 94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of

4102 § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-

4103 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

4104 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250

4105 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in §

4106 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against

4107 Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of
4108 insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in §
4109 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
4110 Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another
4111 jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is
4112 required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
4113 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4114 "Barrier crime information" means the following facts concerning a person who has been arrested
4115 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
4116 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
4117 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
4118 the disposition of the charge, and any other information that may be useful in identifying persons arrested
4119 for or convicted of a barrier crime.

4120 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
4121 recreation to children or the elderly or disabled.

4122 "Department" means the Department of State Police.

4123 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
4124 or seeks to volunteer for a qualified entity.

4125 "Identification document" means a document made or issued by or under the authority of the
4126 United States government, a state, a political subdivision of a state, a foreign government, political
4127 subdivision of a foreign government, an international governmental or an international quasi-
4128 governmental organization that, when completed with information concerning a particular individual, is
4129 of a type intended or commonly accepted for the purpose of identification of individuals.

4130 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
4131 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
4132 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised

4133 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
4134 operate a qualified entity.

4135 "Qualified entity" means a business or organization that provides care to children or the elderly or
4136 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
4137 pursuant to subdivision A 7 of § 22.1-289.030.

4138 B. A qualified entity may request the Department of State Police to conduct a national criminal
4139 background check on any provider who is employed by such entity. No qualified entity may request a
4140 national criminal background check on a provider until such provider has:

- 4141 1. Been fingerprinted; and
- 4142 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
4143 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
4144 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
4145 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
4146 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
4147 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
4148 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
4149 prompt determination as to the validity of such challenge before a final determination is made by the
4150 Department; and (v) a notice to the provider that prior to the completion of the background check the
4151 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
4152 for whom the qualified entity provides care.

4153 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
4154 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
4155 B, the Department shall make a determination whether the provider has been convicted of or is the subject
4156 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
4157 information, the Department shall access the national criminal history background check system, which
4158 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
4159 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If

4160 the Department receives a background report lacking disposition data, the Department shall conduct
4161 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
4162 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
4163 days.

4164 D. Any background check conducted pursuant to this section for a provider employed by a private
4165 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
4166 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
4167 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

4168 E. Any background check conducted pursuant to this section for a provider employed by a
4169 governmental entity shall be provided to that entity.

4170 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
4171 national criminal background check, the Department and the Federal Bureau of Investigation may each
4172 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
4173 with the fingerprints.

4174 G. The failure to request a criminal background check pursuant to subsection B shall not be
4175 considered negligence per se in any civil action.

4176 **§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing**
4177 **of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of**
4178 **former possession of marijuana offenses.**

4179 A. If a person was convicted of a violation of any of the following sections, such conviction,
4180 including any records relating to such conviction, shall be ordered to be automatically sealed in the manner
4181 set forth in § 19.2-392.7, subject to the provisions of subsections B and C: § 18.2-96, 18.2-103, 18.2-119,
4182 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or § 18.2-415.

4183 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be
4184 ordered to be automatically sealed if seven years have passed since the date of the conviction and the
4185 person convicted of such offense has not been convicted of violating any law of the Commonwealth that
4186 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other

4187 state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions
4188 under Title 46.2, during that time period.

4189 C. No conviction listed under subsection a shall be automatically sealed if, on the date of the
4190 conviction, the person was convicted of another offense that is not eligible for automatic sealing under
4191 subsection A.

4192 D. If a person was charged with any criminal offense and such offense concluded with any final
4193 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed
4194 in the manner set forth in § 19.2-392.7.

4195 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
4196 court pursuant to the provisions of § 19.2-392.12.

4197 § 22.1-206. **Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**
4198 **products, and gambling.**

4199 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
4200 prescribed by the Board of Education.

4201 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
4202 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
4203 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
4204 educational materials to the Department of Education. The Department of Education shall review and shall
4205 distribute such materials as are approved to the public schools.

4206 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
4207 shall distribute to each local school division educational materials concerning the health and safety risks
4208 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
4209 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
4210 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
4211 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
4212 educational materials.

4213 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the
4214 public schools as prescribed by the Board.

4215 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4216 A. School boards shall expel from school attendance any student whom such school board has
4217 determined, in accordance with the procedures set forth in this article, to have brought a controlled
4218 substance, or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247 onto
4219 school property or to a school-sponsored activity. A school administrator, pursuant to school board policy,
4220 or a school board may, however, determine, based on the facts of a particular situation, that special
4221 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion
4222 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee
4223 to conduct a preliminary review of such cases to determine whether a disciplinary action other than
4224 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
4225 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
4226 with the procedures set forth in this article. Nothing in this section shall be construed to require a student's
4227 expulsion regardless of the facts of the particular situation.

4228 B. Each school board shall revise its standards of student conduct to incorporate the requirements
4229 of this section no later than three months after the date on which this act becomes effective.

4230 **§ 23.1-1301. Governing boards; powers.**

4231 A. The board of visitors of each baccalaureate public institution of higher education or its designee
4232 may:

- 4233 1. Make regulations and policies concerning the institution;
- 4234 2. Manage the funds of the institution and approve an annual budget;
- 4235 3. Appoint the chief executive officer of the institution;
- 4236 4. Appoint professors and fix their salaries; and
- 4237 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4238 B. The governing board of each public institution of higher education or its designee may:

4239 1. In addition to the powers set forth in Restructured Higher Education Financial and
4240 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
4241 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
4242 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
4243 and administered in the same manner as all other gifts and bequests;

4244 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
4245 purposes on any property owned by the institution;

4246 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
4247 maintained, or controlled by the institution;

4248 4. Adopt regulations or institution policies for the employment and dismissal of professors,
4249 teachers, instructors, and other employees;

4250 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
4251 to the regulations or institution policies required pursuant to § 23.1-1303;

4252 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
4253 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
4254 by such regulations or policies;

4255 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
4256 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
4257 the awareness and prevention of sexual crimes committed upon students;

4258 8. Establish guidelines for the initiation or induction of students into any social fraternity or
4259 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

4260 9. Assign any interest it possesses in intellectual property or in materials in which the institution
4261 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
4262 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
4263 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
4264 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
4265 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and

4266 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
4267 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
4268 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
4269 In the event the Governor does not approve such transfer, the materials shall remain the property of the
4270 respective institutions and may be used and developed in any manner permitted by law;

4271 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
4272 electronic communication means pursuant to § 2.2-3708.3; and

4273 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
4274 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
4275 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
4276 statutes and local ordinances with respect to offenses occurring on the property of the institution.

4277 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4278 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification
4279 card, vehicle registration, certificate of title, or other document issued by the Department if such person
4280 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
4281 entitled thereto, including obtaining any document issued by the Department through the use of
4282 counterfeit, forged, or altered documents.

4283 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,
4284 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

4285 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
4286 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
4287 provisions of subsection A.

4288 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
4289 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
4290 of any document issued by the Department for the purpose of engaging in any age-limited activity,
4291 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.

4292 However, if a person is charged and convicted of any other violation of this section, such offense shall
4293 constitute a Class 6 felony.

4294 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
4295 identification card, vehicle registration, certificate of title, or other document issued by the Department
4296 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
4297 notice of the cancellation to the address of record maintained by the Department.

4298 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
4299 **card to obtain alcoholic beverages; penalties.**

4300 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
4301 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United
4302 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
4303 United States Armed Forces identification card; United States passport or foreign government visa;
4304 Virginia Department of Motor Vehicles special identification card; official identification issued by any
4305 other federal, state or foreign government agency; or official student identification card of an institution
4306 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
4307 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
4308 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

4309 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4310 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
4311 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
4312 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such
4313 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
4314 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
4315 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief
4316 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon
4317 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,
4318 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court

4319 that the threat to public safety complained of exists and is likely to continue if such injunction is not
4320 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.
4321 The respondent shall be served with notice of the time and place of the hearing and copies of all
4322 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the
4323 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of
4324 the injunction has been abated by reason of a change of ownership, management, or business operations
4325 at the establishment, or other change in circumstance.

4326 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4327 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia
4328 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an
4329 investigation into the activities at the establishment complained of and conduct an administrative hearing.
4330 After the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4331 hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control
4332 Authority or the Virginia Cannabis Control Authority, regardless of disposition, any injunction issued
4333 hereunder shall be null, without further action by the complainant, respondent, or the court.

4334 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4335 This section shall apply to any person who is not a qualified voter because of a felony conviction,
4336 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
4337 meets the conditions and requirements set out in this section.

4338 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
4339 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-
4340 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)
4341 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
4342 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
4343 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
4344 such petition, the court may approve the petition for restoration to the person of his right if the court is
4345 satisfied from the evidence presented that the petitioner has completed, five or more years previously,

4346 service of any sentence and any modification of sentence including probation, parole, and suspension of
4347 sentence; that the petitioner has demonstrated civic responsibility through community or comparable
4348 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
4349 the same period.

4350 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
4351 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
4352 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
4353 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
4354 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
4355 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
4356 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
4357 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
4358 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
4359 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
4360 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

4361 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
4362 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
4363 vote.

4364 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4365 A. Any person shall be regarded as practicing the healing arts who actually engages in such
4366 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
4367 to the public in any manner a readiness to practice or who uses in connection with his name the words or
4368 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
4369 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
4370 to heal, cure or relieve those suffering from any injury, deformity or disease.

4371 Signing a birth or death certificate, or signing any statement certifying that the person so signing
4372 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or

4373 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
4374 practicing the healing arts within the meaning of this chapter except where persons other than physicians
4375 are required to sign birth certificates.

4376 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
4377 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
4378 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
4379 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
4380 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance
4381 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
4382 that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to
4383 issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

4384 **§ 59.1-200. Prohibited practices.**

4385 A. The following fraudulent acts or practices committed by a supplier in connection with a
4386 consumer transaction are hereby declared unlawful:

- 4387 1. Misrepresenting goods or services as those of another;
- 4388 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 4389 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
4390 services, with another;
- 4391 4. Misrepresenting geographic origin in connection with goods or services;
- 4392 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,
4393 or benefits;
- 4394 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or
4395 model;
- 4396 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
4397 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"
4398 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,

4399 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,
4400 imperfects or "not first class";

4401 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
4402 at the price or upon the terms advertised.

4403 In any action brought under this subdivision, the refusal by any person, or any employee, agent,
4404 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
4405 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall
4406 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods
4407 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount
4408 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer
4409 did in fact have or reasonably expected to have at least such quantity or amount for sale;

4410 9. Making false or misleading statements of fact concerning the reasons for, existence of, or
4411 amounts of price reductions;

4412 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or
4413 parts installed;

4414 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
4415 or bill for merchandise or services previously ordered;

4416 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
4417 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
4418 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
4419 goods or services advertised or offered for sale;

4420 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
4421 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
4422 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or
4423 under federal statutes or regulations;

4424 13a. Failing to provide to a consumer, or failing to use or include in any written document or
4425 material provided to or executed by a consumer, in connection with a consumer transaction any statement,

4426 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.
4427 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection
4428 with the consumer transaction;

4429 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in
4430 connection with a consumer transaction;

4431 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
4432 3.2-6516, or 3.2-6519 is a violation of this chapter;

4433 16. Failing to disclose all conditions, charges, or fees relating to:

4434 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
4435 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
4436 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
4437 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
4438 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
4439 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for
4440 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the
4441 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund
4442 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not
4443 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for
4444 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested
4445 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the
4446 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or
4447 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4448 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the
4449 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
4450 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of
4451 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the
4452 agreement;

4453 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in
4454 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's
4455 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within
4456 60 days of receiving overpayments. If the credit balance information is incorporated into statements of
4457 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is
4458 required;

4459 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
4460 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
4461 agreement;

4462 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

4463 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1
4464 et seq.);

4465 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1
4466 et seq.);

4467 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-
4468 207.17 et seq.);

4469 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

4470 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-
4471 424 et seq.);

4472 24. Violating any provision of § 54.1-1505;

4473 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,
4474 Chapter 17.6 (§ 59.1-207.34 et seq.);

4475 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

4476 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

4477 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

4478 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
4479 seq.);

- 4480 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40
- 4481 et seq.);
- 4482 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4483 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4484 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4485 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4486 35. Using the consumer's social security number as the consumer's account number with the
- 4487 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
- 4488 with the consumer's social security number;
- 4489 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4490 37. Violating any provision of § 8.01-40.2;
- 4491 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4492 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4493 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4494 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
- 4495 59.1-525 et seq.);
- 4496 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4497 43. Violating any provision of § 59.1-443.2;
- 4498 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4499 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4500 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4501 47. Violating any provision of § 18.2-239;
- 4502 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4503 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
- 4504 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 4505 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 4506 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the

- 4507 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
4508 products that are used, secondhand or "seconds";
- 4509 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
 - 4510 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
 - 4511 52. Violating any provision of § 8.2-317.1;
 - 4512 53. Violating subsection A of § 9.1-149.1;
 - 4513 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
4514 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
4515 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
4516 which defective drywall has been permanently installed or affixed;
 - 4517 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
4518 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-
4519 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
4520 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
4521 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
 - 4522 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
 - 4523 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
 - 4524 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
 - 4525 59. Violating any provision of subsection E of § 32.1-126;
 - 4526 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession
4527 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
 - 4528 61. Violating any provision of § 2.2-2001.5;
 - 4529 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
 - 4530 63. Violating any provision of § 6.2-312;
 - 4531 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
 - 4532 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
 - 4533 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

4534 67. Knowingly violating any provision of § 8.01-27.5;

4535 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option
4536 to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30
4537 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period
4538 to avoid an obligation to pay for the goods or services;

4539 69. Selling or offering for sale any substance intended for human consumption, orally or by
4540 inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision,
4541 "synthetic derivative" means a chemical compound produced by man through a chemical transformation
4542 to turn a compound into a different compound by adding or subtracting molecules to or from the original
4543 compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S.
4544 Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be
4545 construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

4546 70. Selling or offering for sale to a person younger than 21 years of age any substance intended
4547 for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
4548 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4549 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
4550 permitted under ~~Chapter 16 Subtitle II~~ (§ ~~4.1-1600~~ 4.1-600 et seq.) of Title 4.1;

4551 71. Selling or offering for sale any substance intended for human consumption, orally or by
4552 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
4553 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
4554 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons
4555 younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such
4556 substance that constitutes a single serving, and (d) the total percentage and milligrams of
4557 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that
4558 are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an~~
4559 ~~independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International~~
4560 ~~Organization of Standardization by a third party accrediting body~~ a licensed marijuana testing facility,

4561 that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
4562 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
4563 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
4564 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under
4565 ~~Chapter 16 (§ 4.1-1600 et seq.)~~ Subtitle II (§ 4.1-600 et seq.) of Title 4.1;

4566 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as
4567 defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing
4568 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

4569 73. Selling or offering for sale any substance intended for human consumption, orally or by
4570 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container
4571 or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined
4572 in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a
4573 manufacturer, processor, packer, or distributor of a product intended for human consumption other than
4574 the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or
4575 distribute such substance;

4576 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not
4577 include a label stating that the product is not intended for human consumption. This subdivision shall not
4578 (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4579 scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted
4580 under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were
4581 manufactured prior to July 1, 2023, provided that the person provides documentation of the date of
4582 manufacture if requested;

4583 75. Violating any provision of § 59.1-466.8;

4584 76. Violating subsection F of § 36-96.3:1;

4585 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or
4586 (ii) any kratom product that does not include a label listing all ingredients and with the following guidance:
4587 "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to

4588 diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the
4589 leaf of the plant *Mitragyna speciosa* or any extract thereof; and

4590 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45,
4591 to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale
4592 of any such good or provision of any such continuous service.

4593 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
4594 lease solely by reason of the failure of such contract or lease to comply with any other law of the
4595 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
4596 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such
4597 contract or lease.

4598 **2. That §§ 4.1-1101.1 and 4.1-1105.1, Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1, and §§**
4599 **18.2-248.1 and 18.2-251.1 of the Code of Virginia are repealed.**

4600 **3. That the following provisions shall become effective on January 1, 2025: (i) §§ 3.2-4113, 4.1-1121,**
4601 **4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-**
4602 **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,**
4603 **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-**
4604 **308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-**
4605 **389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-277.08,**
4606 **46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of Virginia, as amended by this**
4607 **act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-**
4608 **1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312 of the Code of Virginia, as created**
4609 **by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as**
4610 **repealed by this act.**

4611 **4. That the Virginia Cannabis Control Authority (the Authority) may, on and after July 1, 2024,**
4612 **begin accepting license applications from all applicants, including pharmaceutical processors and**
4613 **cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title**
4614 **4.1 of the Code of Virginia and industrial hemp processors or growers that are registered with the**

4615 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.)
4616 of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-1000 of
4617 the Code of Virginia, as created by this act; however, no license authorized by this act shall be
4618 granted prior to July 1, 2029, to any person who was a member of the General Assembly on January
4619 12, 2024. Notwithstanding the third enactment of this act, any applicant issued a license by the
4620 Authority may operate in accordance with the provisions of this act prior to January 1, 2025;
4621 however, prior to January 1, 2025, no licensee may engage in the retail sale of retail marijuana,
4622 retail marijuana products, immature marijuana plants, or marijuana seeds. Notwithstanding any
4623 other provision of law, on or after July 1, 2024, and prior to January 1, 2025, no marijuana
4624 cultivation facility licensee, marijuana processing facility licensee, marijuana transporter licensee,
4625 retail marijuana store licensee, or marijuana testing facility licensee or agent or employee thereof
4626 shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1
4627 of the Code of Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-
4628 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 of
4629 the Code of Virginia, as repealed by this act, involving marijuana if such violation is related to acts
4630 committed within the scope of the licensure or employment and in accordance with the provisions
4631 of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. From
4632 July 1, 2024, to July 1, 2029, the Authority shall reserve license slots for all pharmaceutical
4633 processors that have been issued a permit by the Board of Directors (the Board) of the Authority
4634 pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and issue a cultivation,
4635 processing, transporter, and retail license to any such pharmaceutical processor that meets the
4636 applicable licensing requirements. The Board shall not permit any marijuana cultivation facility
4637 licensee to engage in the outdoor growth of marijuana plants until the Board has promulgated
4638 regulations governing outdoor growth pursuant to § 4.1-606 of the Code of Virginia, as amended by
4639 this act.

4640 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-
4641 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4642 6. That the Virginia Cannabis Control Authority shall analyze whether any limits should be placed
4643 on the number of licenses issued to operate a marijuana establishment and report its finding to the
4644 General Assembly by November 1, 2024.

4645 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
4646 promulgate regulations to implement the provisions of this act by December 31, 2024. With the
4647 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process
4648 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
4649 thereto shall apply to the Board's initial adoption of such regulations.

4650 8. That the provisions of this act may result in a net increase in periods of imprisonment or
4651 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
4652 appropriation is _____ for periods of imprisonment in state adult correctional facilities;
4653 therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia
4654 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-
4655 19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for
4656 periods of commitment to the custody of the Department of Juvenile Justice.

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