

SENATE BILL NO. 448

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on _____)

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

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

Be it enacted by the General Assembly of Virginia:

26 1. That §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-611, 4.1-614, 4.1-621, 4.1-
27 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-
28 278.9, 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,
29 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,
30 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,
31 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,
32 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-
33 206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-
34 200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended
35 by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in
36 Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-
37 1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-
38 1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of
39 sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections
40 numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1
41 sections numbered 4.1-1403 through 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a
42 section numbered 6.2-108 as follows:

43 **§ 3.2-4113. Production of industrial hemp lawful.**

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

53 possession, handling, or processing of industrial hemp. In any complaint, information, or indictment, and
54 in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100 et
55 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-
56 3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained
57 in this article or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or
58 exemption shall be on the defendant.

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

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

65 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

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

75 **§ 4.1-600. Definitions.**

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

77 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction
78 that is calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or

79 marijuana seeds, including any written, printed, graphic, digital, electronic, or other material, billboard,
80 sign, or other outdoor display, publication, or radio or television broadcast.

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

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

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

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

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

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

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

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

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

95 "Historically economically disadvantaged community" means the same as that term is defined in
96 § 56-576.

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

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

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

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

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

103 ~~"Manufacturing" or "manufacture" means the production of marijuana products or the blending,~~
104 ~~infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana~~

105 ~~extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not~~
106 ~~include cultivation or testing.~~

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

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

122 "Marijuana cultivation facility" means a facility licensed under ~~this subtitle to cultivate, label, and~~
123 ~~package retail marijuana; to purchase or take possession of marijuana plants and seeds from other~~
124 ~~marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana~~
125 ~~plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of~~
126 ~~and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities;~~
127 ~~to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell~~
128 ~~immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at~~
129 ~~home for personal use~~ § 4.1-800.

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 § 4.1-801.

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

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

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

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

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

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

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

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

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

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

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

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

179 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession
180 of ~~retail~~ marijuana, ~~retail~~ marijuana products, ~~immature~~ marijuana plants, or ~~marijuana~~ seeds from a
181 ~~marijuana~~ cultivation facility, ~~marijuana~~ manufacturing facility, or ~~marijuana~~ wholesaler and to sell retail

182 ~~marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers~~ § 4.1-
183 802.

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

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

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

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

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

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

196 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

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

207 B. The Board of Directors of the Authority is vested with control of the possession, sale,
208 transportation, distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the

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

220 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
221 **meetings; compensation and expenses; duties.**

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

227 B. The Advisory Council shall have a total membership of ~~21~~ 22 members that shall consist of ~~14~~
228 15 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the
229 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic
230 diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be
231 appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia
232 Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the
233 American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of
234 Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be
235 appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a

236 community services board, one of whom shall be a person or health care provider with expertise in
237 substance use disorder treatment and recovery, one of whom shall be a person or health care provider with
238 expertise in substance use disorder prevention, one of whom shall be a person with experience in disability
239 rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom
240 shall be a person with a social or health equity background; and ~~four~~ five to be appointed by the Governor,
241 subject to confirmation by the General Assembly, one of whom shall be a representative of a local health
242 district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an
243 academic researcher knowledgeable about cannabis, ~~and~~ one of whom shall be a registered medical
244 cannabis patient, and one of whom shall be a representative of a cannabis testing laboratory that has
245 operated in the Commonwealth for no less than one year.

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

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

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

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

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

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

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

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

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

281 **§ 4.1-604. Powers and duties of the Board.**

282 The Board shall have the following powers and duties:

283 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
284 and § 4.1-606;

285 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

286 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or
287 authorized pursuant to this subtitle;

- 288 4. Determine the nature, form, and capacity of all containers used for holding marijuana products
289 to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;
- 290 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;
- 291 6. Establish standards and implement an online course for employees of retail marijuana stores
292 that trains employees on how to educate consumers on the potential risks of marijuana use;
- 293 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
294 similar document regarding the potential risks of marijuana use to be prominently displayed and made
295 available to consumers;
- 296 8. Establish a position for a Cannabis ~~Social Equity~~ Minority and Small Business Liaison who
297 shall lead the Cannabis Minority and Small Business ~~Equity and Diversity~~ Support Team and liaise with
298 the Director of Diversity, Equity, and Inclusion on matters related to ~~diversity, equity, minority~~ and
299 ~~inclusion standards~~ small business participation in the marijuana industry;
- 300 9. Establish a Cannabis Minority and Small Business ~~Equity and Diversity~~ Support Team, which
301 shall (i) ~~develop requirements for the creation and submission of diversity, equity, and inclusion plans by~~
302 ~~persons who wish to possess a license in more than one license category pursuant to subsection C of §~~
303 ~~4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship~~
304 ~~plan, and an approval process and requirements for implementation of such plans;~~ (ii) be responsible for
305 conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned
306 businesses and veteran-owned businesses interested in participating in the marijuana industry and
307 recommending strategies to effectively mitigate such potential barriers; ~~(iii)~~ (ii) provide assistance with
308 business planning for potential marijuana establishment licensees; ~~(iv)~~ (iii) spread awareness of business
309 opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana
310 prohibition and enforcement; ~~(v)~~ (iv) provide technical assistance in navigating the administrative process
311 to potential marijuana establishment licensees; and ~~(vi)~~ (v) conduct other outreach initiatives in areas
312 disproportionately impacted by marijuana prohibition and enforcement as necessary;
- 313 10. Establish a position for an individual with professional experience in a health related field who
314 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the

315 Office of the Secretary of Health and Human Resources and relevant health and human services agencies
316 and organizations, and perform other duties as needed;

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

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

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

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

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

329 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
330 experts, investment bankers, superintendents, managers, and such other employees and special agents as
331 may be necessary and fix their compensation to be payable from funds made available to the Authority.
332 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
333 (§ 2.2-500 et seq.) of Title 2.2;

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

341 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
342 conditions as are prescribed by the Commonwealth;

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

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

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

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

358 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
359 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
360 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
361 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
362 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
363 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
364 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
365 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
366 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
367 land or building required for the purposes of this subtitle;

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

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

374 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
375 production of records, memoranda, papers, and other documents before the Board or any agent of the
376 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member
377 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
378 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
379 The Board may enter into consent agreements and may request and accept from any applicant, licensee,
380 or permittee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or
381 permit or (ii) disciplinary action. Any such consent agreement (a) shall include findings of fact and
382 provisions regarding whether the terms of the consent agreement are confidential and (b) may include an
383 admission or a finding of a violation. A consent agreement shall not be considered a case decision of the
384 Board and shall not be subject to judicial review under the provisions of the Administrative Process Act
385 (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

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

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

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

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

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

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

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

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

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

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

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

424 **§ 4.1-606. Regulations of the Board.**

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

431 B. The Board shall promulgate regulations that:

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

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

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

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

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

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

445 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not
446 exceed (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an

447 equivalent amount for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible marijuana
448 products and where practicable an equivalent amount for other marijuana products. Such regulations may
449 include other product and dispensing limitations on tetrahydrocannabinol;

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

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

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

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

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

466 13. Establish criteria by which to ~~evaluate social equity~~ identify license applicants, ~~which shall be~~
467 ~~an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either~~
468 ~~(i) an applicant with~~ that have at least 66 percent ownership by a person or persons who ~~have been~~
469 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~
470 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana;~~ (ii) an applicant with at least 66 percent
471 ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been
472 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~
473 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana;~~ (iii) an applicant with at least 66 percent

474 ownership by a person or persons who have (i) have resided for at least three of the past five years in a
475 jurisdiction that is determined by the Board after utilizing census tract data made available by the United
476 States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with
477 at least 66 percent ownership by a person or persons who have resided for at least three of the last five
478 years in a jurisdiction determined by the Board after utilizing census tract data made available by the
479 United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent
480 ownership by a person or persons who graduated from a historically black historically economically
481 disadvantaged community; (ii) have attended for at least five years a public elementary or secondary
482 school located in a historically economically disadvantaged community; (iii) have received a federal Pell
483 Grant or attended for at least two years a college or university located in the Commonwealth at which at
484 least 30 percent of the students, on average, are eligible for a federal Pell Grant; (iv) are a veteran of the
485 armed forces of the United States and were discharged or released under conditions other than
486 dishonorable; or (v) are an industrial hemp processor or grower that is registered with the Commissioner
487 of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and
488 completed such registration prior to January 1, 2021;

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

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

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

499 17. ~~15.~~ Establish reasonable time, place, and manner restrictions on outdoor advertising of ~~retail~~
500 marijuana or ~~retail~~ marijuana products, not inconsistent with the provisions of this chapter, so that such

501 advertising displaces the illicit market and notifies the public of the location of marijuana establishments.

502 Such regulations shall be promulgated in accordance with § 4.1-1404; and

503 ~~18-16. Establish restrictions on the number of licenses that a person may be granted to operate a~~

504 marijuana establishment in single locality or region; ~~and~~

505 ~~19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have~~

506 ~~been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure~~

507 ~~all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may~~

508 ~~limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial~~

509 ~~hemp processor that such processor may offer for sale in its retail marijuana stores.~~

510 C. The Board may promulgate regulations that:

511 1. Limit the number of licenses issued by type or class to operate a marijuana establishment;

512 however, the number of licenses issued shall not exceed the following limits:

513 a. Retail marijuana stores, ~~400~~ 300;

514 b. Marijuana ~~wholesalers~~ transporters, ~~25~~ 50;

515 c. Marijuana ~~manufacturing~~ processing facilities, 60; ~~and~~

516 d. Marijuana cultivation facilities, 450; and

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

518 ~~In determining the number of licenses issued pursuant to this subdivision, the Board shall not~~

519 ~~consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that~~

520 ~~has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the~~

521 ~~Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture~~

522 ~~and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.~~

523 2. Prescribe any requirements deemed appropriate for the administration of taxes under ~~§§~~ § 4.1-

524 1003 ~~and 4.1-1004~~, including method of filing a return, information required on a return, and form of

525 payment.

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

527 2,500 square feet of retail floor space.

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

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

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

536 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
 537 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
 538 7, 10, or ~~16~~ 14, and shall not promulgate any such regulation that has not been approved by a majority of
 539 the members of the Cannabis Public Health Advisory Council.

540 G. With regard to regulations governing licensees that have been issued a permit by the Board of
 541 ~~Pharmacy~~ to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to ~~Article 4.2~~
 542 ~~(§ 54.1-3442.5 et seq.) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.),~~ the Board shall make
 543 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board
 544 ~~of Pharmacy~~ that establish health, safety, and security requirements for pharmaceutical processors and
 545 cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated
 546 pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been
 547 found to be in compliance with regulations promulgated by the Board of ~~Pharmacy~~ that mirror or are more
 548 extensive in scope than similar regulations promulgated pursuant to this subtitle.

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

550 **§ 4.1-611. Seed-to-sale tracking system.**

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

555 § 4.1-614. Disposition of moneys collected by the Board.

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

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

564 B. The net profits derived under the provisions of this subtitle shall be transferred by the
565 Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each
566 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may
567 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of
568 \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on
569 the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the
570 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general
571 appropriation act as follows:

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

580 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less
581 ~~local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614~~ tax revenues

582 distributed to counties and cities pursuant to subsection D and all costs, expenses, and charges authorized
583 by this section.

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

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

600 **§ 4.1-621. Certain information not to be made public.**

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

608 Nothing contained in this section shall prohibit the use or release of such information or documents
609 by the Board to any governmental or law-enforcement agency, or when considering the granting, denial,
610 revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or
611 permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to
612 any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such
613 information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of
614 ~~retail~~ marijuana or ~~retail~~ marijuana products sales in the Commonwealth by marijuana wholesaler
615 licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that
616 such information does not identify the licensee.

617 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

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

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

625 The question on the ballot shall be:

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

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

632 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of
633 whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted

634 to operate within the locality 60 days after the results are certified or on January 1, 2025, whichever is
635 later, and no subsequent referendum may be held pursuant to this section within such locality.

636 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of
637 whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited
638 in the locality effective January 1 of the year immediately following the referendum. A referendum on the
639 same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four
640 years following the date of the previous referendum. Any subsequent referendum shall be held pursuant
641 to the provisions of this section.

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

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

652 **§ 4.1-630. Local ordinances or resolutions regulating marijuana or marijuana products.**

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

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

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

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

666 **§ 4.1-631. Local ordinances regulating time of sale of marijuana and marijuana products.**

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

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

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

677 **CHAPTER 7.**

678 **ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.**

679 **§ 4.1-700. Exemptions from licensure.**

680 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
681 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with the
682 provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial hemp that
683 is registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§
684 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
685 has been issued a regulated hemp product retail facility registration and is acting in accordance with the
686 provisions of Title 3.2; (iv) a manufacturer of an edible hemp product operating in accordance with Article

687 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person who cultivates marijuana at home for
688 personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person
689 described in clauses (i) through (iv) from obtaining a license pursuant to this subtitle, provided such person
690 satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an
691 industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title
692 3.2; or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed
693 premises a pharmaceutical processing facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an
694 industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

695 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

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

700 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting;**
701 **expiration; civil penalties.**

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

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

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

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

711 E. The privileges conferred by any license granted by the Board shall continue until the last day
712 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except

713 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to
714 grant a license or by operation of law, voluntary surrender, or order of the Board.

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

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

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

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

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

732 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

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

736 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in
737 accordance with Board regulations of all purchases of marijuana products, the prices charged such licensee
738 therefor, and the names and addresses of the persons from whom purchased. Every licensed retail
739 marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board

740 regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of
741 marijuana products sold and the total price charged by it therefor. Except as otherwise provided in
742 subsections C and D, such account need not give the names or addresses of the purchasers thereof, except
743 as may be required by Board regulation.

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

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

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

756 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
757 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
758 open to the public substantially during the same hours, "reasonable hours" means the business hours when
759 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records
760 are not available for inspection, the licensee shall provide the records to a special agent of the Board within
761 24 hours after a request is made to inspect the records.

762 CHAPTER 8.

763 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

764 § 4.1-800. Marijuana cultivation facility license.

765 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall
766 authorize the licensee to cultivate, label, and package marijuana; to purchase or take possession of

767 marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell
768 marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer
769 possession of marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters; to
770 transfer possession of and sell marijuana, marijuana plants, and marijuana seeds to other marijuana
771 cultivation facilities; and to transfer possession of and sell marijuana to marijuana processing facilities:

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

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

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

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

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

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

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

792 **§ 4.1-801. Marijuana processing facility license.**

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

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

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

809 **§ 4.1-802. Retail marijuana store license.**

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

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

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

818 2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature
819 marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall

820 not be permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds
821 using:

822 a. An automated dispensing or vending machine;

823 b. A drive-through sales window;

824 c. An Internet-based sales platform; or

825 d. A delivery service.

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

829 4. A retail marijuana store shall not:

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

831 or

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

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

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

844 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the
845 existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the
846 availability of a means to report crimes or gain assistance. The notice required by this subsection shall (i)

847 be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in
848 subsection C of § 40.1-11.3.

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

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

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

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

863 **§ 4.1-803. Marijuana transporter license.**

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

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

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

880 **§ 4.1-804. Marijuana testing facility license.**

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

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

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

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

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

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

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

902 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

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

906 B. A person may possess or hold interest in one or any combination of the following licenses
907 pursuant to Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation
908 facility license, tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license,
909 marijuana processing facility license, marijuana transporter license, or retail marijuana store license.
910 Board regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that
911 all licensees have an equal and meaningful opportunity to participate in the market. Moreover, (i) no
912 person shall be granted or hold interest in more than five total licenses, not including marijuana transporter
913 licenses, issued pursuant to this subtitle and (ii) no person that has been granted or holds interest in a
914 marijuana cultivation facility license, marijuana processing facility license, marijuana transporter license,
915 or retail marijuana store license shall be issued or hold interest in a marijuana testing facility license.

916 **§ 4.1-806. Temporary permits required in certain instances.**

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

924 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board
925 for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a

926 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the
927 expiration of three business days after the order of the revocation has been mailed to the permittee at either
928 his residence or the address given for the business in the permit application. No further notice shall be
929 required.

930 **§ 4.1-807. Licensee shall maintain possession of premises.**

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

936 **§ 4.1-808. Conditions under which the Board shall or may refuse to grant licenses.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

972 2. The applicant is a member or employee of the Board or is a corporation or other business entity
973 in which a member or employee of the Board is a stockholder or has any other economic interest.
974 Whenever any other elected or appointed official of the Commonwealth or any political subdivision
975 thereof applies for such a license or continuance thereof, he shall state on the application the official
976 position he holds, and whenever a corporation or other business entity in which any such official is a
977 stockholder or has any other economic interest applies for such a license, it shall state on the application
978 the full economic interests of each such official in such corporation or other business entity.

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

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

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

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

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

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

998 f. When the applicant is applying for a retail marijuana store license, is so constructed, arranged,
999 or illuminated that law-enforcement officers and special agents of the Board are prevented from ready
1000 access to and reasonable observation of any room or area within which marijuana or marijuana products
1001 are to be sold; or

1002 g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured,
1003 sold, or used.

1004 Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or
1005 premises until the final stage of the license approval process.

1006 4. The number of licenses existing in the locality is such that the granting of a license is detrimental
1007 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
1008 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail
1009 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and
1010 number of all licenses existent in the particular county, city, or town and the immediate neighborhood
1011 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in
1012 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by
1013 a local governing body or local residents.

1014 5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
1015 political subdivision thereof that warrants refusal by the Board to grant any license.

1016 6. The Board is not authorized under this subtitle to grant such license.

1017 **§ 4.1-809. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
1018 **exceptions.**

1019 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
1020 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
1021 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by
1022 the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
1023 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
1024 shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.
1025 Neither mandamus nor injunction shall lie in any such case.

1026 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store
1027 license, provided that such:

1028 1. License for the applicant has been refused or revoked within a period of 12 months;

1029 2. License for any premises has been refused or revoked at that location within a period of 12
1030 months; or

1031 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted
1032 by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there

1033 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
1034 alleging a violation of this subtitle.

1035 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time
1036 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
1037 the Board may refuse a hearing on an application for a new license until after the date on which the
1038 suspension period would have been executed had the license not been permitted to expire.

1039 CHAPTER 9.

1040 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

1041 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

1042 A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

1043 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
1044 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
1045 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
1046 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
1047 percent or more of the membership interest of the limited liability company:

1048 a. Has misrepresented a material fact in applying to the Board for such license;

1049 b. Within the five years immediately preceding the date of the hearing held in accordance with §
1050 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.),
1051 or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or
1052 failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to
1053 comply with any of the conditions or restrictions of the license granted by the Board;

1054 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
1055 under the laws of any state or of the United States;

1056 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
1057 other persons have ownership interests in the business that have not been disclosed;

1058 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
1059 conducted under the license granted by the Board;

1060 f. Has been intoxicated or under the influence of some self-administered drug while upon the
1061 licensed premises;

1062 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
1063 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
1064 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

1065 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
1066 such licensed premises;

1067 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
1068 product except as provided under this subtitle;

1069 j. Is physically unable to carry on the business conducted under such license or has been
1070 adjudicated incapacitated;

1071 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

1072 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
1073 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
1074 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
1075 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
1076 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
1077 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
1078 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
1079 any conduct related to the operation of the licensed business that facilitates the commission of any of the
1080 offenses set forth herein;

1081 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
1082 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1083 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
1084 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
1085 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
1086 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.)

1087 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
1088 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
1089 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
1090 threat to the public safety;

1091 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
1092 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
1093 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1094 of public property immediately adjacent to the licensed premises; or

1095 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
1096 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

1097 2. The place occupied by the licensee:

1098 a. Does not conform to the requirements of the governing body of the county, city, or town in
1099 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
1100 any similar requirements established by the laws of the Commonwealth or by Board regulations;

1101 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

1102 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
1103 drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs
1104 are regularly used or distributed. The Board may consider the general reputation in the community of such
1105 establishment in addition to any other competent evidence in making such determination.

1106 3. The licensee or any employee of the licensee discriminated against any member of the Armed
1107 Forces of the United States by prices charged or otherwise.

1108 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
1109 had the facts been known.

1110 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
1111 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
1112 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
1113 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction

1114 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
1115 plan approved by the same locality to settle the outstanding liability.

1116 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
1117 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
1118 licensed premises in the Commonwealth.

1119 7. Any other cause authorized by this subtitle.

1120 B. The Board shall promulgate regulations regarding suspension and revocation standards and
1121 protocols.

1122 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

1123 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
1124 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
1125 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
1126 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
1127 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1128 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
1129 continuing threat to public safety and that summary suspension of the license or permit is justified to
1130 protect the health, safety, or welfare of the public.

1131 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
1132 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
1133 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
1134 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
1135 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
1136 the licensee may petition the Board for a restricted license pending the results of the formal investigation
1137 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the
1138 Board shall have discretion to impose appropriate restrictions based on the facts presented.

1139 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence
1140 a formal investigation. The formal investigation shall be completed within 10 days of its commencement

1141 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,
1142 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held
1143 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days
1144 of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the
1145 hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee
1146 shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The
1147 Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

1148 D. Service of any order of suspension issued pursuant to this section shall be made by a special
1149 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect
1150 immediately upon service.

1151 E. This section shall not apply to temporary permits granted under § 4.1-806.

1152 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

1153 The Board shall suspend or revoke any license if it finds that:

1154 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
1155 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

1156 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
1157 government or governmental agency or authority, by making or filing any report, document, or tax return
1158 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of
1159 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
1160 government or governmental agency or authority, by making or maintaining business records required by
1161 statute or regulation that are false or fraudulent.

1162 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil**
1163 **penalties.**

1164 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
1165 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
1166 Administrative Process Act (§ 2.2-4000 et seq.).

1167 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
1168 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
1169 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
1170 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
1171 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
1172 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
1173 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
1174 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against
1175 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
1176 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought
1177 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1178 If the Board fails to provide for inspection or copying under this section for the licensee after a
1179 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
1180 have lawfully been entitled to inspect or copy under this section.

1181 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
1182 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
1183 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
1184 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
1185 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
1186 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither
1187 mandamus nor injunction shall lie in any such case.

1188 B. In suspending any license, the Board may impose, as a condition precedent to the removal of
1189 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
1190 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
1191 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
1192 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
1193 violation or \$5,000 for the second or subsequent violation occurring within five years immediately

1194 preceding the date of the second or subsequent violation. However, if the violation involved selling
1195 marijuana or marijuana products to a person prohibited from purchasing marijuana or marijuana products
1196 or allowing consumption of marijuana or marijuana products, the Board may impose a civil penalty not to
1197 exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the
1198 violation and \$6,000 for a second or subsequent violation occurring within five years immediately
1199 preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof,
1200 or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board
1201 not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation
1202 in addition to any suspension or civil penalty incurred.

1203 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
1204 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
1205 consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the
1206 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing
1207 or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed
1208 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges
1209 within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of
1210 the suspension as applicable, or (4) proceed to a hearing.

1211 D. The Board shall, by regulation or written order:

1212 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
1213 initial hearing;

1214 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
1215 of suspension may be accepted for a first offense occurring within three years immediately preceding the
1216 date of the violation;

1217 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
1218 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
1219 its employees marijuana seller training certified in advance by the Board;

1220 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
1221 license and the civil charge acceptable in lieu of such suspension; and

1222 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
1223 licensee has had no prior violations within five years immediately preceding the date of the violation. No
1224 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
1225 subtitle or Board regulations.

1226 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on**
1227 **hand; termination.**

1228 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee
1229 at the time the license of such person is suspended or revoked may be disposed of as follows:

1230 1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products
1231 upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board;
1232 or

1233 2. Destroyed by the Board or its designee.

1234 B. All marijuana or marijuana products owned by or in the possession of any person whose license
1235 is suspended or revoked shall be disposed of by such person in accordance with the provisions of this
1236 section within 60 days from the date of such suspension or revocation.

1237 C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose
1238 licenses have been terminated other than by suspension or revocation may be disposed of in accordance
1239 with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

1240 D. All marijuana or marijuana products owned by or remaining in the possession of any person
1241 described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited
1242 to the Commonwealth in accordance with the provisions of § 4.1-1303.

1243 **CHAPTER 10.**

1244 **ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.**

1245 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

1246 A. Every person intending to apply for any license authorized by this subtitle shall file with the
1247 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
1248 and affirming that all of the information contained therein is true.

1249 B. Such applications, including applications for renewal, shall include any information necessary
1250 for the Board to determine whether the applicant meets or continues to meet the criteria set forth in
1251 subdivision B 13 of § 4.1-606 or subsection E of § 4.1-1001, which the Board may consider, along with
1252 other relevant factors, when determining whether to grant the application.

1253 C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by
1254 the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a
1255 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending
1256 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a
1257 pending application or inspection, such license shall authorize the licensee to purchase marijuana,
1258 marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of
1259 this subtitle; however, the licensee shall not sell marijuana, marijuana products, immature marijuana
1260 plants, or marijuana seeds until an inspection is completed.

1261 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his
1262 application with the Board on the front door of the building, place, or room where he proposes to engage
1263 in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and
1264 contain such information as required by the Board, including a statement that any objections shall be
1265 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to
1266 this subsection.

1267 The applicant shall also cause notice to be published at least once a week for two consecutive
1268 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
1269 such applicant proposes to engage in such business. Such notice shall contain such information as required
1270 by the Board, including a statement that any objections to the issuance of the license be submitted to the
1271 Board not later than 30 days from the date of the initial newspaper publication.

1272 E. The Board shall conduct a background investigation on each license applicant, which shall
1273 include a criminal history records search and may include a fingerprint-based national criminal history
1274 records search and a requirement for the provision of personal descriptive information to be forwarded
1275 through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of
1276 obtaining criminal history record information regarding such applicant. The Central Criminal Records
1277 Exchange shall forward the results of the criminal history background check to the Board or its designee,
1278 which shall be a governmental entity.

1279 However, the Board may waive, for good cause shown, the requirement for a criminal history
1280 records search and completed personal data form for officers, directors, nonmanaging members, or limited
1281 partners of any applicant corporation, limited liability company, or limited partnership. In considering
1282 criminal history record information, the Board shall not disqualify an applicant because of a past
1283 conviction for a marijuana-related offense.

1284 F. The Board shall notify the local governing body of each license application through the town
1285 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
1286 shall submit objections to the granting of a license within 30 days of the filing of the application.

1287 G. Each applicant shall pay the required application fee at the time the application is filed. The
1288 license application fee shall be determined by the Board and shall be in addition to the actual cost charged
1289 to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records
1290 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
1291 Criminal Records Exchange for each criminal history records search required by the Board. Application
1292 fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

1293 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
1294 all licensees shall file and maintain with the Board a current, accurate record of the information required
1295 by the Board pursuant to subsection A and notify the Board of any changes to such information in
1296 accordance with Board regulations.

1297 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
1298 Board. Such permits shall confer upon their holders no authority to make solicitations in the
1299 Commonwealth as otherwise provided by law.

1300 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
1301 for applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied
1302 by the number of months for which the permit is granted.

1303 J. The Board shall have the authority to increase state license fees. The Board shall set the amount
1304 of such increases on the basis of the consumer price index and shall not increase fees more than once every
1305 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all
1306 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
1307 would be required for any license affected by the Board's proposed fee increases. Such notice shall be
1308 provided on or before November 1 in any year in which the Board has decided to increase state license
1309 fees, and such increases shall become effective July 1 of the following year.

1310 **§ 4.1-1001. Fees for state licenses.**

1311 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover
1312 the costs of regulating the marijuana establishment.

1313 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
1314 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
1315 the number of months in the license period, and then increased by five percent. Such fee shall not be
1316 refundable, except as provided in § 4.1-1002.

1317 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
1318 restaurant license or any other state tax except the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et
1319 seq.) pursuant to § 4.1-1003. Every licensee, in addition to the taxes and fees imposed by this subtitle,
1320 shall be liable to state merchants' license taxation and other state taxation.

1321 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
1322 purchased in person from the Board if such license is available for purchase online.

1323 E. The Board may waive all or part of the initial license fee if (i) the license applicant is a service
1324 disabled veteran, as defined in § 2.2-4310, or a small, women-owned, or minority-owned business, as
1325 those terms are defined in § 2.2-1604, that is certified by the Department of Small Business and Supplier
1326 Diversity pursuant to § 2.2-1606 or (ii) the licensed marijuana establishment would be located in a
1327 historically economically disadvantaged community, as defined in § 56-576.

1328 **§ 4.1-1002. Refund of state license fee.**

1329 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any
1330 amounts collected through erroneous assessments or collected as fees on licenses applications that are
1331 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is
1332 subsequently merged or changed into another license during the same license period. No refund shall be
1333 made of any such amount, however, unless made within three years from the date of collection of the
1334 same.

1335 B. In any case where a licensee has changed its name or form of organization during a license
1336 period without any change being made in its ownership, and because of such change is required to pay an
1337 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
1338 paid in excess of the required license fee for such period.

1339 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
1340 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the
1341 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
1342 similar natural disaster or phenomenon.

1343 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
1344 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1345 **§ 4.1-1003. Marijuana tax; exceptions.**

1346 A. A tax of 12 percent is levied on the sale in the Commonwealth of any marijuana, marijuana
1347 products, and marijuana paraphernalia sold by a retail marijuana store, including non-retail marijuana and
1348 non-retail marijuana products. The tax shall be in lieu of any tax imposed under the Virginia Retail Sales
1349 and Use Tax Act (§ 58.1-600 et seq.).

- 1350 B. The tax shall not apply to any sale:
- 1351 1. From a marijuana establishment to another marijuana establishment.
- 1352 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).
- 1353 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§
- 1354 3.2-4112 et seq.) of Title 3.2.
- 1355 4. Of a hemp product or regulated hemp product.
- 1356 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §
- 1357 4.1-614.
- 1358 **§ 4.1-1004. Tax returns and payments; commissions; interest.**
- 1359 A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All
- 1360 taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not
- 1361 be liable for collecting or remitting the taxes or filing a return.
- 1362 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall
- 1363 file a return under oath with the Authority and pay any taxes due. Upon written application by a person
- 1364 filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the
- 1365 calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the
- 1366 accrual of any interest or penalties under § 4.1-1007.
- 1367 C. The Authority may accept payment by any commercially acceptable means, including cash,
- 1368 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
- 1369 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.
- 1370 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
- 1371 card, or automated clearinghouse transfer information and use such information for future payments of
- 1372 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any
- 1373 payments made under this subsection. The Authority may procure the services of a third-party vendor for
- 1374 the secure storage of information collected pursuant to this subsection.
- 1375 E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the
- 1376 business, such person shall make a final return and payment within 15 days after the date of selling or

1377 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase
1378 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner
1379 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or
1380 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as
1381 provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties
1382 due and unpaid on account of the operation of the business by any former owner.

1383 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a
1384 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under
1385 § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

1386 **§ 4.1-1005. Bonds.**

1387 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
1388 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such surety
1389 as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become
1390 due from such person. In lieu of such bond, securities approved by the Authority may be deposited with
1391 the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold
1392 by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to
1393 do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the
1394 surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

1395 **§ 4.1-1006. Refunds.**

1396 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §
1397 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise
1398 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii)
1399 destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the
1400 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,
1401 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund
1402 payment from the state treasury to such extent as may be proper.

1403 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
1404 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall
1405 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such
1406 extent as may be proper.

1407 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-
1408 1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of
1409 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax
1410 so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller
1411 after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct
1412 the same in submitting his return.

1413 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
1414 **penalties.**

1415 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which
1416 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the
1417 Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the
1418 collection of such taxes may be begun without assessment, at any time within six years from such date.
1419 The Authority shall not examine any person's records beyond the three-year period of limitations unless
1420 it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to
1421 file a return and failed to do so.

1422 B. If any person fails to file a return as required by this section, or files a return that is false or
1423 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
1424 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
1425 days' notice requiring such person to provide any records as it may require relating to the business of such
1426 person for the taxable period. The Authority may require such person or the agents and employees of such
1427 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
1428 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
1429 required return, refuses to provide required records, or refuses to answer interrogatories from the

1430 Authority, the Authority may make an estimated assessment based upon the information available to it
1431 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
1432 The estimated assessment shall be deemed prima facie correct.

1433 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
1434 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
1435 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
1436 the person's place of business is located or in which the person resides. If the person has no place of
1437 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
1438 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
1439 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment
1440 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
1441 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may
1442 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time
1443 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien
1444 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,
1445 in those instances where the Authority determines that the collection of any tax, penalties, or interest
1446 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may
1447 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given
1448 to the person at his last known address.

1449 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
1450 appeal under § 4.1-1008.

1451 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
1452 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing
1453 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each
1454 of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or
1455 satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias
1456 to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior

1457 approval of the Authority. In the event that the person against whom the distraint has been applied
1458 subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount
1459 of liability in lieu of payment until the appeal is resolved.

1460 4. A person may petition the Authority after a memorandum of lien has been filed under this
1461 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination
1462 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a
1463 certificate of release of the lien within seven days after such determination is made.

1464 **§ 4.1-1008. Appeals.**

1465 Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the
1466 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to
1467 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire
1468 evidential record of the proceedings provided by the Authority in accordance with the Administrative
1469 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding
1470 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by
1471 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in
1472 any such case.

1473 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age**
1474 **or older lawful; penalties.**

1475 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a
1476 person 21 years of age or older may lawfully possess on his person or in any public place not more than
1477 ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as
1478 determined by regulation promulgated by the Board.

1479 B. Any person who possesses on his person or in any public place marijuana or marijuana products
1480 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except
1481 as otherwise provided in this section. The penalty for any violations of this section by an adult shall be
1482 prepayable according to the procedures in § 16.1-69.40:2.

1483 C. With the exception of possession by a person in his residence or possession by a licensee in the
 1484 course of his duties related to such licensee's marijuana establishment, any person who possesses on his
 1485 person or in any public place (i) more than four ounces but not more than one pound of marijuana or an
 1486 equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty
 1487 of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more
 1488 than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation
 1489 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one
 1490 year nor more than 10 years and a fine of not more than \$250,000, or both.

1491 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
 1492 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
 1493 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
 1494 necessary for the performance of their duties.

1495 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

1496 A. ~~Notwithstanding the provisions of subdivision (c) of § 18.2-248.1, a~~ A person 21 years of age
 1497 or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at
 1498 no point shall a household contain more than four marijuana plants. For purposes of this section, a
 1499 "household" means those individuals, whether related or not, who live in the same house or other place of
 1500 residence.

1501 A person may only cultivate marijuana plants pursuant to this section at such person's main place
 1502 of residence.

1503 A violation of this subsection shall be punishable as follows:

- 1504 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a
 1505 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class
 1506 2 misdemeanor for a third and any subsequent offense;
- 1507 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;
- 1508 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1509 4. For possession of more than 100 marijuana plants, a felony punishable by a term of
1510 imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or
1511 both.

1512 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1513 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft,
1514 binoculars, or other optical aids;

1515 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1516 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
1517 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
1518 under this section.

1519 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The
1520 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §
1521 16.1-69.40:2.

1522 ~~C. A person shall not manufacture marijuana concentrate from home cultivated marijuana. The~~
1523 ~~owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to~~
1524 ~~manufacture marijuana concentrate from home cultivated marijuana within or on that property or land.~~

1525 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana**
1526 **products; conspiracy; penalties.**

1527 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or
1528 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
1529 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1530 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1531 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
1532 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such
1533 conspiracy is guilty of a Class 6 felony.

1534 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1535 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons
1536 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in
1537 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the
1538 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
1539 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods
1540 or services.

1541 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
1542 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
1543 subsection C, he is guilty of a Class 2 misdemeanor.

1544 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1545 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
1546 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1547 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of**
1548 **legal age; penalties.**

1549 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give,
1550 or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows
1551 or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age
1552 or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1
1553 misdemeanor.

1554 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any
1555 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of
1556 the sale does not require the individual to present bona fide evidence of legal age indicating that the
1557 individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal
1558 age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by
1559 any state of the United States or the District of Columbia, military identification card, United States
1560 passport or foreign government visa, unexpired special identification card issued by the Department of
1561 Motor Vehicles, or any other valid government-issued identification card bearing the individual's

1562 photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably
1563 appears to match the appearance of the purchaser. A student identification card shall not constitute bona
1564 fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this
1565 subsection is guilty of a Class 3 misdemeanor.

1566 C. No person shall be convicted of both subsections A and B for the same sale.

1567 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
1568 **exceptions; penalties; forfeiture; treatment and education programs and services.**

1569 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-
1570 1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or
1571 marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement
1572 officer or his agent when possession of marijuana or marijuana products is necessary in the performance
1573 of his duties. Such person may be prosecuted either in the county or city in which the marijuana or
1574 marijuana products were possessed or consumed or in the county or city in which the person exhibits
1575 evidence of physical indicia of consumption of marijuana or marijuana products.

1576 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
1577 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
1578 if available, that in the opinion of the court best suits the needs of the accused.

1579 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who
1580 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
1581 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion
1582 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-
1583 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

1584 D. Any such substance abuse treatment or education program to which a juvenile is ordered
1585 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral
1586 Health and Developmental Services or (ii) a similar program available through a facility or program
1587 operated by or under contract with the Department of Juvenile Justice or a locally operated court services
1588 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et

1589 seq.). Any such substance abuse treatment or education program to which a person 18 years of age or
1590 older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of
1591 Behavioral Health and Developmental Services or (b) a program or services made available through a
1592 community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of
1593 Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local
1594 community-based probation services agency, the local community-based probation services agency shall
1595 be responsible for providing for services or referring the offender to education or treatment services as a
1596 condition of probation.

1597 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
1598 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years
1599 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a
1600 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth
1601 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued
1602 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth
1603 certificate, or student identification card of another person in order to establish a false identification or
1604 false age for himself to consume, purchase, or attempt to consume or purchase marijuana or marijuana
1605 products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1606 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
1607 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1608 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
1609 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
1610 immunity from an administrative penalty for a violation of § 4.1-1104.

1611 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be**
1612 **sold; penalties; forfeiture.**

1613 A. Any person who purchases marijuana or marijuana products for another person and at the time
1614 of such purchase knows or has reason to believe that the person for whom the marijuana or marijuana
1615 products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

1616 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of
1617 marijuana or marijuana products to, another person when he knows or has reason to know that such person
1618 is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when
1619 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
1620 Class 1 misdemeanor.

1621 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
1622 contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1623 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1624 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
1625 every description where marijuana or marijuana products are manufactured, processed, stored, sold,
1626 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed
1627 common nuisances.

1628 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
1629 nuisance.

1630 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1631 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
1632 involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof
1633 of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other
1634 place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the
1635 penalty of not less than \$500 and with security to be approved by the court, conditioned that the premises
1636 shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a period of
1637 five years, turn the same over to its owner or lessor, or proceeding may be had in equity as provided in §
1638 4.1-1300.

1639 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
1640 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
1641 had the right, because of such unlawful use, to enter and repossess the property.

1642 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1643 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
1644 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
1645 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
1646 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
1647 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a
1648 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
1649 felony.

1650 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1651 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
1652 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
1653 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
1654 to hold and conduct such hearing.

1655 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1656 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1657 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
1658 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
1659 correctional center any marijuana or marijuana products.

1660 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1661 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1662 A. No person shall separate plant resin by butane extraction or another method that utilizes a
1663 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
1664 the curtilage of any residential structure.

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

1666 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1667 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another
1668 in doing, or attempting to do, any of the things prohibited by this subtitle.

1694 5. Keep or allow to be kept, other than in his residence and for his personal use, any marijuana or
1695 marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test by
1696 such license or by this subtitle;

1697 6. Keep any marijuana or marijuana product other than in the container in which it was purchased
1698 by him; or

1699 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

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

1701 **§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**

1702 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
1703 employee shall use or consume any marijuana or marijuana products (i) on the licensed premises, except
1704 for certain sampling for quality control purposes in accordance with Board regulations or (ii) while on
1705 duty and in a position that is involved in the selling of marijuana or marijuana products to consumers.

1706 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana
1707 or marijuana products.

1708 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
1709 amount not to exceed \$500.

1710 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person**
1711 **without a license; penalty.**

1712 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
1713 resale or sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased
1714 from anyone other than a marijuana cultivation facility or marijuana processing facility.

1715 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1716 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by licensees; penalty.**

1717 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from
1718 one licensed place of business to another licensed place of business unless such transfer is completed by
1719 a marijuana transporter licensee.

1720 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1721 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

1722 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
1723 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
1724 decorations under circumstances prohibited by this title or Board regulations.

1725 Any person found by the Board to have violated this section shall be subject to a civil penalty as
1726 authorized in § 4.1-903.

1727 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
1728 **accounts or to allow examination and inspection; penalty.**

1729 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,
1730 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)
1731 allow such records, invoices, and accounts or his place of business to be examined and inspected in
1732 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
1733 misdemeanor.

1734 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
1735 may suspend or revoke any license of such licensee that was issued by the Authority.

1736 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

1737 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due
1738 under § 4.1-1003. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any
1739 marijuana or marijuana products on which such retailer has reason to know such tax has not been paid and
1740 may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1741 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil
1742 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not
1743 more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during
1744 which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

1745 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
1746 Commonwealth of any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the
1747 amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed

1748 under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when
1749 any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

1750 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the
1751 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount
1752 due within five days after the Authority gives it notice that such check was returned unpaid, the person
1753 that tendered the check is guilty of a violation of § 18.2-182.1.

1754 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
1755 manner as if they were a part of the tax imposed.

1756 **§ 4.1-1300. Enjoining nuisances.**

1757 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney
1758 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined
1759 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
1760 nuisance.

1761 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
1762 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
1763 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such house,
1764 building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction
1765 shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the
1766 owners and tenants and their agents and employees, and any person connected with such house, building,
1767 or other place, and all persons whomsoever from cultivating, processing, storing, selling, dispensing,
1768 giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain
1769 all persons from removing any marijuana or marijuana products then on such premises until the further
1770 order of the court. If the court is satisfied that the material allegations of the bill are true, although the
1771 premises complained of may not then be unlawfully used, it shall continue the injunction against such
1772 place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is
1773 shown for dissolution.

1774 § 4.1-1301. Contraband marijuana or marijuana products and other articles subject to
1775 forfeiture.

1776 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,
1777 all marijuana or marijuana products and materials used in their manufacture or processing, and all
1778 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or in
1779 any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described
1780 in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person
1781 is using, to aid such person in the unlawful cultivation, manufacture, processing, transportation, or sale of
1782 marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other
1783 beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the
1784 immediate vicinity of any place where marijuana or marijuana products are being unlawfully
1785 manufactured or processed and where such animal or vehicle is being used to aid in the unlawful
1786 manufacture or processing, shall be deemed contraband and shall be forfeited to the Commonwealth.

1787 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
1788 4.1-1303 for all such property except motor vehicles, which proceedings shall be in accordance with
1789 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1790 § 4.1-1303. Confiscation proceedings; disposition of forfeited articles.

1791 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
1792 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1793 B. Whenever any article declared contraband under the provisions of this subtitle and required to
1794 be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with
1795 the enforcement of this subtitle, he shall produce the contraband article and any person in whose
1796 possession it was found. In those cases where no person is found in possession of such articles, the return
1797 shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the
1798 articles were found, or if there is no door, then in any conspicuous place upon the premises.

1799 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
1800 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy

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

1809 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
1810 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
1811 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or
1812 any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness,
1813 and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the
1814 Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and
1815 destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness
1816 have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful
1817 cultivation, processing, or manufacture of marijuana or marijuana products or were intended for use in
1818 violation of this subtitle.

1819 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than
1820 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on
1821 such return to determine whether or not the articles seized, or any part thereof, were used or in any manner
1822 kept, stored, or possessed in violation of this subtitle.

1823 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
1824 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
1825 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
1826 hearing and file a written claim setting forth particularly the character and extent of his interest. The court

1827 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
1828 determine the validity of such claim.

1829 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
1830 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
1831 not be a bar to any prosecution under any other provision of this subtitle.

1832 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with
1833 this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales
1834 shall be paid into the Literary Fund.

1835 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
1836 Board in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose
1837 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
1838 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
1839 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
1840 date when given and shall be kept in the offices of the Board.

1841 **§ 4.1-1304. Contraband marijuana or marijuana products.**

1842 Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by
1843 the Board authorizing the transportation of marijuana or marijuana products within the Commonwealth
1844 when other Board regulations applicable to such transportation have been complied with shall not be cause
1845 for deeming such marijuana or marijuana products contraband.

1846 **§ 4.1-1305 Punishment for violations of title or regulations; bond.**

1847 A. Any person convicted of a misdemeanor under the provisions of this subtitle without
1848 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
1849 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

1850 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any
1851 person is convicted of a violation of any provision of this subtitle may require such defendant to execute
1852 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
1853 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one

1854 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,
1855 or until he is discharged by the court, provided that he shall not be confined for a period longer than six
1856 months. If any such bond required by a court is not given during the term of the court by which conviction
1857 is had, it may be given before any judge or before the clerk of such court.

1858 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or
1859 refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

1860 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
1861 assistant has been notified that such a case is pending.

1862 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

1863 No person shall be excused from testifying for the Commonwealth as to any offense committed
1864 by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given
1865 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
1866 used against him and he shall not be prosecuted for the offense to which he testifies.

1867 **§ 4.1-1307. Previous convictions.**

1868 In any indictment, information, or warrant charging any person with a violation of any provision
1869 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
1870 such person has been previously convicted of a violation of this subtitle.

1871 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

1872 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
1873 marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of
1874 the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana
1875 content of a container, whether sealed or not.

1876 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

1877 No action to recover the price of any marijuana or marijuana products sold in contravention of this
1878 subtitle may be maintained.

1879 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

1880 The Board shall establish a testing program for marijuana and marijuana products. Except as
1881 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,
1882 prior to selling or distributing marijuana or a marijuana product to a consumer or to another licensee, to
1883 submit a representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total
1884 harvest or batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or
1885 marijuana product does not exceed the maximum level of allowable contamination for any contaminant
1886 that is injurious to health and for which testing is required and to ensure correct labeling. The Board shall
1887 adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable
1888 testing and research practices, including regulations relating to testing practices, methods, and standards;
1889 quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping,
1890 documentation, and business practices; disposal of used, unused, and waste marijuana and marijuana
1891 products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health
1892 for which marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the
1893 maximum level of allowable contamination for each contaminant.

1894 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not**
1895 **required; required destruction; random testing.**

1896 A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to
1897 another licensee under this subtitle unless a representative sample of the marijuana or marijuana product
1898 has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the
1899 mandatory testing has demonstrated that (i) the marijuana or marijuana product does not exceed the
1900 maximum level of allowable contamination for any contaminant that is injurious to health and for which
1901 testing is required and (ii) the labeling on the marijuana or marijuana product is correct.

1902 B. Mandatory testing of marijuana and marijuana products under this section shall include testing
1903 for:

- 1904 1. Residual solvents;
- 1905 2. Heavy metals;
- 1906 3. Microbiological contaminants;

- 1907 4. Mycotoxins;
- 1908 5. Pesticide chemical residue; and
- 1909 6. Active ingredient analysis.
- 1910 Testing shall be performed on the final form in which the marijuana or marijuana product will be
- 1911 consumed.
- 1912 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
- 1913 marijuana or marijuana product provided to the marijuana testing facility, the identity of the marijuana
- 1914 testing facility, and the results of the mandatory test.
- 1915 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested
- 1916 marijuana or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or
- 1917 contamination for any contaminant that is injurious to health and for which testing is required, the
- 1918 marijuana testing facility shall immediately quarantine, document, and properly destroy the marijuana or
- 1919 marijuana product and within seven days of completing the test shall notify the Board of the test results.
- 1920 A marijuana testing facility is not required to notify the Board of the results of any test:
- 1921 1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this
- 1922 section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of
- 1923 allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for
- 1924 which testing is required;
- 1925 2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and
- 1926 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the
- 1927 performance of the test that the testing is for research and development purposes only; or
- 1928 3. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.
- 1929 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
- 1930 licensee marijuana or a marijuana product that the licensee has not submitted for testing in accordance
- 1931 with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:
- 1932 1. The marijuana or marijuana product has previously undergone testing in accordance with this
- 1933 subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing

1934 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable
1935 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing
1936 is required;

1937 2. The mandatory testing process and the test results for the marijuana or marijuana product are
1938 documented in accordance with the requirements of this subtitle and all applicable regulations adopted
1939 pursuant to this subtitle;

1940 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
1941 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or
1942 to a consumer can be easily identified; and

1943 4. The marijuana or marijuana product has not undergone any further processing, manufacturing,
1944 or alteration subsequent to the performance of the prior testing under subsection A.

1945 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana
1946 products whose testing samples indicate noncompliance with the health and safety standards required by
1947 this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures
1948 can bring the marijuana or marijuana product into compliance with such required health and safety
1949 standards.

1950 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for
1951 the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

1952 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

1953 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer
1954 shall be labeled with the following information:

1955 1. Identification of the type of marijuana or marijuana product;

1956 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and
1957 the retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered
1958 for sale, as applicable;

1959 3. A statement of the net weight of the marijuana or marijuana product;

1960 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,
1961 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid
1962 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains
1963 tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the
1964 package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and
1965 (v) the potency of the tetrahydrocannabinol and other cannabinoid content;

1966 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

1967 6. Instructions on usage, including information regarding the amount of marijuana or marijuana
1968 product that constitutes a single serving;

1969 7. A recommended use by date or expiration date;

1970 8. For marijuana and marijuana products, the following statement, prominently displayed in bold
1971 print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
1972 MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD
1973 TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF
1974 CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO
1975 DRIVE AND MAY BE HABIT-FORMING. MARIJUANA SHOULD NOT BE USED WHILE
1976 PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website
1977 maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

1978 9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana
1979 products;

1980 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total
1981 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the
1982 batch from which the substance originates; and

1983 11. Any other information required by Board regulations.

1984 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
1985 accordance with the provisions of this subtitle shall be packaged in the following manner:

1986 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and
1987 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-
1988 resistant, tamper-evident, and resealable packaging that is opaque;

1989 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
1990 component; and

1991 3. Packaging shall comply with any other requirements imposed by Board regulations.

1992 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
1993 accordance with the provisions of this subtitle shall not:

1994 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise
1995 be labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other
1996 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or
1997 distributor of a product intended for human consumption other than the manufacturer, processor, packer,
1998 or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise
1999 be packaged or labeled in violation of a federal trademark law or regulation;

2000 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
2001 of age;

2002 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2003 4. Be labeled or packaged using a false or misleading label;

2004 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a
2005 human, animal, vehicle, or fruit; and

2006 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
2007 by Board regulations.

2008 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**
2009 **marijuana products deemed applicable by the Authority; health and safety regulations.**

2010 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
2011 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a
2012 consumer:

- 2013 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;
- 2014 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;
- 2015 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within
- 2016 the product being homogeneous throughout the product or throughout each element of the product that
- 2017 has a cannabinoid content;
- 2018 4. Shall be processed and manufactured in a manner that results in the amount of marijuana
- 2019 concentrate within the product being homogeneous throughout the product or throughout each element of
- 2020 the product that contains marijuana concentrate;
- 2021 5. Shall have a universal symbol stamped or embossed on the packaging of each product;
- 2022 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product
- 2023 and shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;
- 2024 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
- 2025 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
- 2026 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
- 2027 than 21 years of age; and
- 2028 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
- 2029 the trademarked product is used as a component of or ingredient in the edible marijuana product and the
- 2030 edible marijuana product is not advertised or described for sale as containing the trademarked product.
- 2031 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations
- 2032 that it deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee
- 2033 to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall
- 2034 establish mandatory health and safety standards applicable to the cultivation of marijuana, the processing
- 2035 and manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana
- 2036 products sold by a licensee to a consumer. Such regulations shall address:
- 2037 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana
- 2038 products by licensees;

2039 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing
2040 and manufacture of marijuana and marijuana products; and

2041 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.

2042 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2043 A. A practitioner in the course of his professional practice may issue a written certification for the
2044 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
2045 determined by the practitioner to benefit from such use. The practitioner shall use his professional
2046 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
2047 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-
2048 time interactive audiovisual technology. No practitioner may issue a written certification while such
2049 practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A
2050 pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to
2051 patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis
2052 to a minor, the written certification shall specifically authorize such dispensing. If not specifically included
2053 on the initial written certification, authorization for botanical cannabis may be communicated verbally or
2054 in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall
2055 not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor,
2056 cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis
2057 dispensing facility, or provider of paraphernalia, excluding information on products or educational
2058 materials on the benefits and risks of cannabis products.

2059 B. The written certification shall be on a form provided by the Authority. Such written certification
2060 shall contain the name, address, and telephone number of the practitioner, the name and address of the
2061 patient issued the written certification, the date on which the written certification was made, and the
2062 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to
2063 subsection A shall expire one year after its issuance unless the practitioner provides in such written
2064 certification an earlier expiration. A written certification shall not be issued to a patient by more than one
2065 practitioner during any given time period.

2066 C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-
2067 248 ~~or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the treatment or
2068 to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification
2069 issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional
2070 licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical
2071 condition or otherwise violating the applicable standard of care for evaluating or treating medical
2072 conditions.

2073 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall
2074 hold sufficient education and training to exercise appropriate professional judgment in the certification of
2075 patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian,
2076 or registered agent that is contingent on or encourages the person's decision to use a particular
2077 pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family
2078 members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than
2079 those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a
2080 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients
2081 to whom a practitioner may issue a written certification. The Board may report information to the
2082 applicable licensing board on unusual patterns of certifications issued by a practitioner.

2083 E. No patient shall be required to physically present the written certification after the initial
2084 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
2085 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an
2086 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
2087 shall electronically transmit on a monthly basis all new written certifications received by the
2088 pharmaceutical processor or cannabis dispensing facility to the Authority.

2089 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
2090 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
2091 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
2092 register with the Board unless the individual's name listed on the patient's written certification. An

2093 individual may, on the basis of medical need and in the discretion of the patient's registered practitioner,
2094 be listed on the patient's written certification upon the patient's request. The Board may set a limit on the
2095 number of patients for whom any individual is authorized to act as a registered agent.

2096 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing
2097 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility
2098 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
2099 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for
2100 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product
2101 to the patient or resident as necessary.

2102 H. Information obtained under the patient certification or agent registration process shall be
2103 confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information
2104 Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the
2105 Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii)
2106 state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a
2107 specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents,
2108 for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained
2109 by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a
2110 patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

2111 **§ 4.1-1604. Criminal liability; exceptions.**

2112 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
2113 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession or
2114 manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to
2115 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
2116 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes
2117 of producing cannabis products in accordance with the provisions of this chapter and Board regulations
2118 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally

2119 accepted cannabis industry standards in accordance with the provisions of this chapter and Board
2120 regulations.

2121 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
2122 **operation.**

2123 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above or upon the
2124 lands or waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any
2125 narcotic or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a
2126 state correctional facility not less than one nor more than five years, or, in the discretion of the court or
2127 jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or
2128 both such fine and imprisonment.

2129 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
2130 lands or waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the
2131 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
2132 any person or property, ~~shall be~~ is guilty of a misdemeanor.

2133 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2134 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
2135 provided in § 4.1-600.

2136 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
2137 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
2138 any state law or regulation solely for providing such a financial service or for further investing any income
2139 derived from such a financial service.

2140 C. Nothing in this section shall require a bank or credit union to provide financial services to a
2141 licensed marijuana establishment.

2142 **§ 9.1-1101. Powers and duties of the Department.**

2143 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
2144 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
2145 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,

2146 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
2147 the head of any private police department that has been designated as a criminal justice agency by the
2148 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal
2149 matter. The Department shall provide such services to any federal investigatory agency within available
2150 resources.

2151 B. The Department shall:

2152 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
2153 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
2154 Commonwealth as needed;

2155 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
2156 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

2157 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
2158 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
2159 breath; and

2160 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
2161 in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-
2162 3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall
2163 consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall
2164 include the total available THC derived from the sum of the THC and THC-A content.

2165 C. The Department shall have the power and duty to:

2166 1. Receive, administer, and expend all funds and other assistance available for carrying out the
2167 purposes of this chapter;

2168 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
2169 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
2170 United States, units of general local government or combinations thereof in Virginia or other states, and
2171 with agencies and departments of the Commonwealth; and

2172 3. Perform such other acts as may be necessary or convenient for the effective performance of its
2173 duties.

2174 D. The Director may appoint and employ a deputy director and such other personnel as are needed
2175 to carry out the duties and responsibilities conferred by this chapter.

2176 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
2177 **finest; prepayment of local ordinances.**

2178 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
2179 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
2180 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
2181 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
2182 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
2183 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
2184 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
2185 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
2186 as authorized in § 46.2-878.3.

2187 Such infractions shall not include:

2188 1. Indictable offenses;

2189 2. [Repealed.]

2190 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
2191 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
2192 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
2193 or in his custody or control;

2194 4. Reckless driving;

2195 5. Leaving the scene of an accident;

2196 6. Driving while under suspension or revocation of driving privileges;

2197 7. Driving without being licensed to drive.

2198 8. [Repealed.]

2199 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
2200 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
2201 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
2202 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
2203 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
2204 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

2205 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
2206 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
2207 be imposed, designating each infraction specifically. The schedule, which may from time to time be
2208 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
2209 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
2210 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
2211 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
2212 with the provisions of this Code or any rules or regulations promulgated thereunder.

2213 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
2214 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
2215 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
2216 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
2217 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
2218 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
2219 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
2220 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
2221 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
2222 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
2223 provisions of this Code or any rules or regulations promulgated thereunder.

2224 **§ 16.1-260. Intake; petition; investigation.**

2225 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
2226 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
2227 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
2228 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
2229 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
2230 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
2231 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
2232 and file petitions and motions relating to the establishment, modification, or enforcement of support on
2233 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
2234 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
2235 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
2236 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
2237 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf
2238 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
2239 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
2240 shall be referred initially to the local department of social services in accordance with the provisions of
2241 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
2242 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
2243 inquire whether the petitioner is receiving child support services or public assistance. No individual who
2244 is receiving support services or public assistance shall be denied the right to file a petition or motion to
2245 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
2246 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
2247 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.
2248 If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner
2249 information on the possible availability of medical assistance through the Family Access to Medical
2250 Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of
2251 Medical Assistance Services.

2252 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
2253 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
2254 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
2255 communications and proceedings shall be conducted in the same manner as if the appearance were in
2256 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
2257 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
2258 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
2259 signatures. Any two-way electronic video and audio communication system used for an appearance shall
2260 meet the standards as set forth in subsection B of § 19.2-3.1.

2261 When the court service unit of any court receives a complaint alleging facts which may be
2262 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
2263 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
2264 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
2265 probable cause for the issuance of the petition.

2266 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
2267 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
2268 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
2269 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
2270 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
2271 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
2272 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
2273 that would be a felony if committed by an adult.

2274 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
2275 and the attendance officer has provided documentation to the intake officer that the relevant school
2276 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
2277 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
2278 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated

2279 in need of supervision on more than two occasions for failure to comply with compulsory school
2280 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
2281 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
2282 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
2283 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
2284 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
2285 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
2286 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
2287 appropriate public agency for the purpose of developing a truancy plan using an interagency
2288 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
2289 from the appropriate department of social services, community services board, local school division, court
2290 service unit, and other appropriate and available public and private agencies and may be the family
2291 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
2292 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
2293 shall file the petition.

2294 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
2295 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
2296 plan for the juvenile, which may include restitution, the performance of community service, or on a
2297 complaint alleging that a child has committed a delinquent act other than an act that would be a felony or
2298 a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
2299 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
2300 community resources and the circumstances which resulted in the complaint, (B) create an official record
2301 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the
2302 juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant
2303 that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon
2304 facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case
2305 of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any

2306 subsequent report from the youth justice diversion program alleging that the juvenile failed to comply
2307 with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in
2308 the filing of a petition with the court.

2309 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
2310 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
2311 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
2312 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
2313 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
2314 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,
2315 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
2316 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
2317 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
2318 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
2319 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
2320 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
2321 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
2322 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
2323 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
2324 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-
2325 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
2326 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2327 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
2328 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
2329 need of supervision have utilized or attempted to utilize treatment and services available in the community
2330 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
2331 officer determines that the parties have not attempted to utilize available treatment or services or have not
2332 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the

2333 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
2334 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
2335 the parties have made a reasonable effort to utilize available community treatment or services may he
2336 permit the petition to be filed.

2337 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
2338 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
2339 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of
2340 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the
2341 magistrate shall be filed within 10 days of the issuance of the written notification. The written notification
2342 shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice
2343 that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide
2344 the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate
2345 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
2346 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
2347 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
2348 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
2349 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
2350 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
2351 a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition
2352 relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as
2353 a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is
2354 appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a
2355 magistrate for a warrant.

2356 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
2357 the intake officer shall accept and file a petition founded upon the warrant.

2358 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
2359 which alleges facts of an offense which would be a felony if committed by an adult.

2360 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
2361 report with the division superintendent of the school division in which any student who is the subject of a
2362 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
2363 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
2364 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
2365 of the filing of the petition and the nature of the offense, if the violation involves:

- 2366 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
2367 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;
- 2368 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2369 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
2370 Title 18.2;
- 2371 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2372 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
2373 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2374 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (~~§ 18.2-247 4.1-~~
2375 1100 et seq.) ~~of Chapter 7 of Title 18.2 4.1;~~
- 2376 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2377 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2378 9. Robbery pursuant to § 18.2-58;
- 2379 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 2380 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 2381 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 2382 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 2383 14. A threat pursuant to § 18.2-60.

2384 The failure to provide information regarding the school in which the student who is the subject of
2385 the petition may be enrolled shall not be grounds for refusing to file a petition.

2386 The information provided to a division superintendent pursuant to this section may be disclosed
2387 only as provided in § 16.1-305.2.

2388 H. The filing of a petition shall not be necessary:

2389 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
2390 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
2391 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.

2392 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
2393 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
2394 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
2395 accident may be located, proceed on a summons in lieu of filing a petition.

2396 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
2397 H of § 16.1-241.

2398 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission
2399 of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or
2400 legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or
2401 legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent
2402 or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the
2403 manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation
2404 of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath
2405 or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12
2406 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize
2407 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and
2408 the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be
2409 tried. When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to
2410 have the charge referred to intake for consideration of informal proceedings pursuant to subsection B,
2411 provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial.
2412 At the time such summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also

2413 serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved
2414 by the Supreme Court and make return of such service to the court. If the officer fails to make such service
2415 or return, the court shall dismiss the summons without prejudice.

2416 4. In the case of offenses, other than marijuana-related offenses, which, if committed by an adult,
2417 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake
2418 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation
2419 in the same manner as provided by law for adults provided that notice of the summons to appear is mailed
2420 by the investigating officer within five days of the issuance of the summons to a parent or legal guardian
2421 of the juvenile.

2422 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
2423 of the jurisdiction granted it in § 16.1-241.

2424 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
2425 **impact statement.**

2426 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
2427 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
2428 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
2429 violations, the court before final disposition thereof may require an investigation, which (i) shall include
2430 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include
2431 a social history of the physical, mental, and social conditions, including an assessment of any affiliation
2432 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
2433 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent
2434 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by
2435 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
2436 Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if
2437 committed by an adult, or (c) a violation of § 4.1-1105, the court shall order the juvenile to undergo a drug
2438 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,
2439 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500

2440 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an
2441 individual employed by or currently under contract to such agencies and who is specifically trained to
2442 conduct such assessments under the supervision of such counselor.

2443 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
2444 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
2445 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
2446 physical, psychological, or economic injury as a result of the violation of law.

2447 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
2448 **offenses; truancy.**

2449 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
2450 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
2451 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
2452 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;
2453 (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
2454 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol
2455 in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public
2456 school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar
2457 ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a
2458 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to
2459 any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's
2460 license. In addition to any other penalty authorized by this section, if the offense involves a violation
2461 designated under clause (i) and the child was transporting a person 17 years of age or younger, the court
2462 shall impose the additional fine and order community service as provided in § 18.2-270. If the offense
2463 involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be
2464 for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such
2465 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a
2466 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or

2467 (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by
2468 a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's
2469 license shall be delayed for a period of six months following the date he reaches the age of 16 and three
2470 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
2471 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
2472 disposition of the delinquency charge until such time as the court disposes of the case pursuant to
2473 subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose
2474 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter
2475 or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving
2476 privileges shall be for a period of not less than 30 days, except when the offense involves possession of a
2477 concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
2478 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
2479 which case the denial of driving privileges shall be for a period of two years unless the offense is
2480 committed by a child under the age of 16 years and three months, in which event the child's ability to
2481 apply for a driver's license shall be delayed for a period of two years following the date he reaches the age
2482 of 16 and three months.

2483 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
2484 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
2485 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
2486 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
2487 of not less than 30 days following the date he reaches the age of 16 and three months.

2488 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
2489 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
2490 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
2491 and three months, as may be appropriate.

2492 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
2493 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

2494 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
2495 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
2496 offense.

2497 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
2498 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
2499 in the physical custody of the court during any period of license denial.

2500 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
2501 which shall preserve a record thereof. The report and the record shall include a statement as to whether
2502 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
2503 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2,
2504 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and
2505 courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless
2506 the proceeding results in an adjudication of guilt pursuant to subsection F.

2507 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
2508 driver's license until such time as is stipulated in the court order or until notification by the court of
2509 withdrawal of the order of denial under subsection E.

2510 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
2511 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
2512 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
2513 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
2514 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
2515 such terms and conditions as the court may set forth.

2516 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
2517 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
2518 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
2519 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
2520 shall be issued for travel to and from home and school when school-provided transportation is available

2521 and no restricted license shall be issued if the finding as to such child involves a violation designated
2522 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
2523 designated in subsection A, a second finding by the court of failure to comply with school attendance and
2524 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
2525 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
2526 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
2527 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
2528 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
2529 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
2530 is guilty of a violation of § 46.2-301.

2531 E. Upon petition made at least 90 days after issuance of the order, the court may review and
2532 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
2533 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
2534 and withdrawn until one year after its issuance.

2535 F. If the finding as to such child involves a first violation designated under clause (vii) of
2536 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
2537 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
2538 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
2539 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
2540 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
2541 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
2542 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
2543 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
2544 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
2545 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
2546 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

2547 **§ 18.2-46.1. Definitions.**

2548 As used in this article, unless the context requires a different meaning:

2549 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or
2550 subsection A of § 19.2-297.1.

2551 "Criminal street gang" means any ongoing organization, association, or group of three or more
2552 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
2553 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
2554 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
2555 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
2556 which is an act of violence, provided such acts were not part of a common act or transaction.

2557 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,
2558 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,
2559 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-
2560 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
2561 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~~
2562 ~~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
2563 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense
2564 under the laws of another state or territory of the United States, the District of Columbia, or the United
2565 States.

2566 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"**
2567 **"imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.**

2568 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used
2569 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
2570 3400 et seq.).

2571 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
2572 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a
2573 controlled substance subject to abuse, and:

2574 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging
2575 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
2576 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
2577 into commerce prior to the initial introduction into commerce of the controlled substance which it is
2578 alleged to imitate; or

2579 2. Which by express or implied representations purports to act like a controlled substance as a
2580 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
2581 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
2582 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2583 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
2584 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
2585 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
2586 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
2587 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
2588 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
2589 and how it is sold to the public.

2590 D. ~~The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
2591 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
2592 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
2593 ~~"Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or~~
2594 ~~cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts~~
2595 ~~of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person~~
2596 ~~registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-~~
2597 ~~4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of~~
2598 ~~Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial~~
2599 ~~hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer,~~

2600 ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into
2601 one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

2602 **E. The term "counterfeit controlled substance" means a controlled substance that, without**
2603 **authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to**
2604 **bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness**
2605 **thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer,**
2606 **processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such**
2607 **drug.**

2608 ~~F.~~E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic
2609 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such
2610 salts, isomers, and salts of isomers is possible within the specific chemical designation and any
2611 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of
2612 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and
2613 geometric isomers.

2614 ~~G.~~F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
2615 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
2616 tetrahydrocannabinolic acid.

2617 ~~H.~~G. The Department of Forensic Science shall determine the proper methods for detecting the
2618 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100
2619 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or
2620 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
2621 tetrahydrocannabinol.

2622 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**
2623 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**
2624 **prohibited; penalties.**

2625 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for
2626 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or
2627 distribute a controlled substance or an imitation controlled substance.

2628 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
2629 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
2630 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
2631 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,
2632 whether the amount of such consideration was substantially greater than the reasonable value of such pill,
2633 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of
2634 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at
2635 which over-the-counter substances of like chemical composition sell.

2636 C. Except as provided in subsection C1, any person who violates this section with respect to a
2637 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
2638 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
2639 violation, and it is alleged in the warrant, indictment, or information that the person has been before
2640 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
2641 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
2642 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
2643 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
2644 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
2645 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2646 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
2647 in the warrant, indictment or information that he has been before convicted of two or more such offenses
2648 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
2649 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
2650 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not

2651 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
2652 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2653 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
2654 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million
2655 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
2656 imprisonment to be served consecutively with any other sentence:

- 2657 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2658 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 2659 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2660 derivatives of ecgonine or their salts have been removed;
 - 2661 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2662 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2663 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
2664 referred to in subdivisions ~~2a through 2c~~ a, b, and c;
- 2665 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
2666 that contain cocaine base; or
- 2667 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
2668 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
2669 salts of its isomers.

2670 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
2671 shall not be applicable if the court finds that:

- 2672 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2673 b. The person did not use violence or credible threats of violence or possess a firearm or other
2674 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 2675 c. The offense did not result in death or serious bodily injury to any person;
- 2676 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and
2677 was not engaged in a continuing criminal enterprise as defined in subsection I; and

2678 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
2679 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2680 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2681 relevant or useful other information to provide or that the Commonwealth already is aware of the
2682 information shall not preclude a determination by the court that the defendant has complied with this
2683 requirement.

2684 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
2685 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
2686 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
2687 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
2688 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing
2689 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined
2690 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
2691 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
2692 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
2693 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
2694 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
2695 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
2696 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
2697 \$500,000.

2698 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
2699 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
2700 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
2701 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
2702 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
2703 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
2704 property owned in whole or in part by the person convicted, the court shall order the person to pay to the

2705 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
2706 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
2707 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that
2708 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
2709 to the guidelines established pursuant to § 32.1-11.7.

2710 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
2711 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
2712 not an inmate in a community correctional facility, local correctional facility or state correctional facility
2713 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from
2714 any consideration received or expected nor to induce the recipient or intended recipient of the controlled
2715 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
2716 of a Class 5 felony.

2717 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
2718 prescription of a person authorized under this article to issue the same, which prescription has not been
2719 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
2720 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
2721 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
2722 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
2723 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
2724 misdemeanor.

2725 E1. Any person who violates this section with respect to a controlled substance classified in
2726 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
2727 248.5, ~~shall be~~ is guilty of a Class 5 felony.

2728 E2. Any person who violates this section with respect to a controlled substance classified in
2729 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

2730 E3. Any person who proves that he gave, distributed or possessed with the intent to give or
2731 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified

2732 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
 2733 who is not an inmate in a community correctional facility, local correctional facility or state correctional
 2734 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
 2735 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
 2736 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
 2737 guilty of a Class 1 misdemeanor.

2738 F. Any person who violates this section with respect to a controlled substance classified in
 2739 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance
 2740 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

2741 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~
 2742 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6
 2743 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection
 2744 that the defendant believed the imitation controlled substance to actually be a controlled substance.

2745 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to
 2746 manufacture, sell, give or distribute the following:

- 2747 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 2748 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - 2749 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2750 derivatives of ecgonine or their salts have been removed;
 - 2751 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2752 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2753 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
 - 2754 substances referred to in subdivisions a ~~through~~, b, and c;
 - 2755 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains
 - 2756 cocaine base; or
 - 2757 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~
 - 2758 ~~or~~

2759 5- 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams
2760 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
2761 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and
2762 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such
2763 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a
2764 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or
2765 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense
2766 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious
2767 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others
2768 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I ~~of this~~
2769 ~~section~~; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the
2770 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2771 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2772 relevant or useful other information to provide or that the Commonwealth already is aware of the
2773 information shall not preclude a determination by the court that the defendant has complied with this
2774 requirement.

2775 H1. Any person who was the principal or one of several principal administrators, organizers or
2776 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at
2777 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
2778 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the
2779 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
2780 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
2781 distribute the following during any 12-month period of its existence:

2782 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
2783 detectable amount of heroin;

2784 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
2785 detectable amount of:

2786 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2787 derivatives of ecgonine or their salts have been removed;

2788 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2789 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2790 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
2791 substances referred to in subdivisions a ~~through~~ b, and c;

2792 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
2793 subdivision 2 ~~which~~ that contains cocaine base; or

2794 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
2795 ~~detectable amount of marijuana; or~~

2796 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
2797 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
2798 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

2799 A conviction under this section shall be punishable by a fine of not more than \$1 million and
2800 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2801 H2. Any person who was the principal or one of several principal administrators, organizers or
2802 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
2803 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
2804 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
2805 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess
2806 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its
2807 existence:

2808 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2809 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

2810 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2811 derivatives of ecgonine or their salts have been removed;

2812 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2813 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2814 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the

2815 substances referred to in subdivisions a ~~through~~, b, and c;

2816 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains

2817 cocaine base; or

2818 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~

2819 ~~or~~

2820 5. ~~At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0~~

2821 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,

2822 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1

2823 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such

2824 punishment shall be made to run consecutively with any other sentence. However, the court may impose

2825 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated

2826 with law-enforcement authorities.

2827 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he

2828 violates any provision of this section, the punishment for which is a felony and either (ii) such violation

2829 is a part of a continuing series of violations of this section which are undertaken by such person in concert

2830 with five or more other persons with respect to whom such person occupies a position of organizer, a

2831 supervisory position, or any other position of management, and from which such person obtains

2832 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or

2833 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in

2834 association with any criminal street gang as defined in § 18.2-46.1.

2835 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses

2836 any two or more different substances listed below with the intent to manufacture methamphetamine,

2837 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,

2838 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture

2839 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,

2840 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
2841 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
2842 or 2-propanone.

2843 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
2844 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
2845 salts of optical isomers.

2846 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

2847 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
2848 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
2849 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
2850 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
2851 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
2852 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
2853 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
2854 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a
2855 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
2856 other sentence.

2857 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
2858 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
2859 **costs and fees; violations; discharge.**

2860 Whenever any person who has not previously been convicted of any criminal offense under this
2861 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
2862 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
2863 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
2864 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
2865 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
2866 consent of the accused, may defer further proceedings and place him on probation upon terms and

2867 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
2868 of court has been provided with the fingerprint identification information or fingerprints of the person,
2869 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
2870 photograph of the person be taken by a law-enforcement officer.

2871 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
2872 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
2873 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
2874 based upon consideration of the substance abuse assessment. The program or services may be located in
2875 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
2876 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
2877 Developmental Services, by a similar program which is made available through the Department of
2878 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
2879 (iii) an ASAP program certified by the Commission on VASAP.

2880 The court shall require the person entering such program under the provisions of this section to
2881 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
2882 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
2883 indigent.

2884 As a condition of probation, the court shall require the accused (a) to successfully complete
2885 treatment or education program or services, (b) to remain drug and alcohol free during the period of
2886 probation and submit to such tests during that period as may be necessary and appropriate to determine if
2887 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
2888 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
2889 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
2890 probation agency or personnel of any program or agency approved by the supervising probation agency.

2891 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
2892 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
2893 court has been provided with the fingerprint identification information or fingerprints of such person, the

2894 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
2895 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
2896 section in subsequent proceedings.

2897 Notwithstanding any other provision of this section, whenever a court places an individual on
2898 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
2899 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
2900 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

2901 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

2902 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
2903 consumption or use of a controlled substance, alcohol, or any combination of such substances.

2904 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
2905 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
2906 marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250,
2907 intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-
2908 3466 if:

2909 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
2910 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
2911 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
2912 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
2913 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
2914 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,
2915 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the
2916 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing
2917 an overdose while another individual seeks or obtains emergency medical attention in accordance with
2918 this subdivision;

2919 2. Such individual remains at the scene of the overdose or at any alternative location to which he
2920 or the person requiring emergency medical attention has been transported until a law-enforcement officer

2921 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose
2922 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
2923 forth herein;

2924 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
2925 the overdose; and

2926 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
2927 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or
2928 assistance.

2929 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
2930 medical attention for himself or another individual, to a person experiencing an overdose when another
2931 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency
2932 care or assistance to an individual experiencing an overdose while another person seeks or obtains
2933 emergency medical attention during the execution of a search warrant or during the conduct of a lawful
2934 search or a lawful arrest.

2935 D. This section does not establish protection from arrest or prosecution for any individual or
2936 offense other than those listed in subsection B.

2937 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
2938 determined that the person arrested was immune from prosecution under this section.

2939 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

2940 No school nurse employed by a local school board, person employed by a local health department
2941 who is assigned to the public school pursuant to an agreement between the local health department and
2942 the school board, or other person employed by or contracted with a local school board to deliver health-
2943 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-~~
2944 ~~248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
2945 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student
2946 who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

2947 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
2948 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

2949 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
2950 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
2951 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
2952 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a
2953 patient or resident who has been issued a valid written certification for the use of cannabis oil in
2954 accordance with § 4.1-1601.

2955 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
2956 **Department of Agriculture and Consumer Services, Department of Law employees.**

2957 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
2958 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,
2959 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of
2960 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
2961 18.2-248,~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial
2962 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations
2963 promulgated by the Board of ~~Pharmacy~~ and the Board of Agriculture and Consumer Services.

2964 B. No employee of the Department of Agriculture and Consumer Services or of the Department of
2965 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-
2966 248.01,~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance
2967 containing tetrahydrocannabinol when possession of industrial hemp or any substance containing
2968 tetrahydrocannabinol is necessary in the performance of his duties.

2969 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
2970 **testing, and treatment or education.**

2971 The trial judge or court trying the case of any person found guilty of a criminal violation of any
2972 law concerning the use, in any manner, of drugs, controlled substances, narcotics,~~marijuana~~, noxious
2973 chemical substances and like substances shall condition any suspended sentence by first requiring such

2974 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
2975 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing
2976 shall be conducted by the supervising probation agency or by personnel of any program or agency
2977 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
2978 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
2979 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance
2980 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
2981 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
2982 Department of Behavioral Health and Developmental Services, by a similar program or services available
2983 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
2984 imposes a sentence of 12 months or less, by a similar program or services available through a local or
2985 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
2986 ASAP program certified by the Commission on VASAP.

2987 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

2988 A. Whenever any person who has not previously been convicted of any criminal offense under this
2989 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,
2990 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
2991 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
2992 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
2993 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
2994 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
2995 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
2996 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
2997 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
2998 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
2999 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
3000 Health and Developmental Services or by a similar program or services available through the Department

3001 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
3002 12 months or less, by a similar program or services available through a local or regional jail, a local
3003 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
3004 certified by the Commission on VASAP.

3005 B. The court trying the case of any person alleged to have committed any criminal offense
3006 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in
3007 which the commission of the offense was motivated by or closely related to the use of drugs and
3008 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
3009 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
3010 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
3011 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
3012 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
3013 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
3014 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
3015 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
3016 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
3017 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
3018 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
3019 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
3020 to the effect that the confined person has successfully responded to treatment, the court may release such
3021 confined person prior to the termination of the period of time for which such person was confined and
3022 may suspend the remainder of the term upon such conditions as the court may prescribe.

3023 C. The court trying a case in which commission of the criminal offense was related to the
3024 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
3025 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
3026 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
3027 treatment of persons with substance abuse licensed by the Department of Behavioral Health and

3028 Developmental Services, if space is available in such facility, for a period of time not in excess of the
3029 maximum term of imprisonment specified as the penalty for conviction. Confinement under such
3030 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
3031 committed may be convicted of escape if he leaves the place of commitment without authority. The court
3032 may revoke such commitment at any time and transfer the person to an appropriate state or local
3033 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
3034 to the effect that the confined person has successfully responded to treatment, the court may release such
3035 confined person prior to the termination of the period of time for which such person was confined and
3036 may suspend the remainder of the term upon such conditions as the court may prescribe.

3037 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3038 A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it
3039 shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
3040 distribute any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~ to any person under 18 years of age
3041 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
3042 distribution of any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~. Any person violating this
3043 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10
3044 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
3045 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
3046 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
3047 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3048 B. It shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally
3049 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
3050 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation
3051 controlled substance. Any person violating this provision shall be is guilty of a Class 6 felony.

3052 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use**
3053 **in administering controlled substances to minors; penalty.**

3054 It ~~shall be~~ is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
3055 to a minor any book, pamphlet, periodical, or other printed matter ~~which~~ that he knows advertises for sale
3056 any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
3057 administering, preparing, or growing ~~marijuana~~ or a controlled substance.

3058 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
3059 **penalty.**

3060 A. It ~~shall be~~ is unlawful for any person to manufacture, sell or distribute or possess with intent to
3061 sell, give, or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

3062 1. Upon the property, including buildings and grounds, of any public or private elementary or
3063 secondary school, any institution of higher education, or any clearly marked licensed child day center as
3064 defined in § 22.1-289.02;

3065 2. Upon public property or any property open to public use within 1,000 feet of the property
3066 described in subdivision 1;

3067 3. On any school bus as defined in § 46.2-100;

3068 4. Upon a designated school bus stop, or upon either public property or any property open to public
3069 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting
3070 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

3071 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
3072 recreation or community center facility or any public library; or

3073 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
3074 property open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the
3075 provisions of this section if the person possessed the controlled substance, or imitation controlled
3076 substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the
3077 person intended to sell, give, or distribute the controlled substance, or imitation controlled substance, ~~or~~
3078 ~~marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

3079 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
3080 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor

3081 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
3082 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§
3083 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum
3084 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
3085 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
3086 individual and not with intent to profit thereby from any consideration received or expected nor to induce
3087 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
3088 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

3089 C. If a person commits an act violating the provisions of this section, and the same act also violates
3090 another provision of law that provides for penalties greater than those provided for by this section, then
3091 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
3092 law or the imposition of any penalties provided for thereby.

3093 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3094 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
3095 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
3096 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
3097 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
3098 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
3099 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
3100 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
3101 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
3102 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
3103 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3104 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3105 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
3106 warehouse, dwelling house, apartment or building or structure of any kind ~~which~~ that is (i) substantially
3107 altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful

3108 entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing
3109 or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be
3110 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
3111 of a Class 5 felony.

3112 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**
3113 **fraud, deceit or forgery.**

3114 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or
3115 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
3116 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
3117 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
3118 giving of a false address.

3119 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any
3120 information from, or willfully make a false statement in, any prescription, order, report, record, or other
3121 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

3122 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of
3123 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or issued
3124 to another person.

3125 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
3126 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
3127 physician, dentist, veterinarian or other authorized person.

3128 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false
3129 or forged written order.

3130 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
3131 containing any controlled substance.

3132 G. This section shall not apply to officers and employees of the United States, of this
3133 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their
3134 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or

3135 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
3136 investigative, research or analytical purposes and who are acting in the course of their employment;
3137 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic
3138 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized
3139 representatives file with the Board such information as the Board may deem appropriate.

3140 H. Except as otherwise provided in this subsection, any person who shall violate any provision
3141 herein ~~shall be~~ is guilty of a Class 6 felony.

3142 Whenever any person who has not previously been convicted of any offense under this article or
3143 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
3144 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
3145 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
3146 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
3147 finding of guilt, the court may place him on probation upon terms and conditions.

3148 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
3149 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
3150 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
3151 any other judicial circuit as the court may provide. The services shall be provided by a program certified
3152 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
3153 the person entering such program under the provisions of this section to pay all or part of the costs of the
3154 program, including the costs of the screening, evaluation, testing and education, based upon the person's
3155 ability to pay unless the person is determined by the court to be indigent.

3156 As a condition of supervised probation, the court shall require the accused to remain drug free
3157 during the period of probation and submit to such tests during that period as may be necessary and
3158 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
3159 any screening, evaluation, and education program to which the person is referred or by the supervising
3160 agency.

3161 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
3162 report to the original arresting law-enforcement agency to submit to fingerprinting.

3163 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
3164 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
3165 shall find the defendant guilty of a Class 1 misdemeanor.

3166 **§ 18.2-265.1. Definition.**

3167 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
3168 of any kind which are either designed for use or which are intended by the person charged with violating
3169 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
3170 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
3171 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
3172 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

3173 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
3174 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled
3175 substance can be derived;

3176 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
3177 producing, processing, or preparing ~~marijuana~~ or controlled substances;

3178 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
3179 or any species of plant ~~which~~ that is a controlled substance;

3180 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
3181 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
3182 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3183 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
3184 controlled substances;

3185 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
3186 or designed for use in cutting controlled substances;

- 3187 ~~7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~
- 3188 ~~from, or in otherwise cleaning or refining, marijuana;~~
- 3189 ~~8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in~~
- 3190 ~~compounding controlled substances;~~
- 3191 ~~9-8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in~~
- 3192 ~~packaging small quantities of marijuana or controlled substances;~~
- 3193 ~~10-9. Containers and other objects intended for use or designed for use in storing or concealing~~
- 3194 ~~marijuana or controlled substances;~~
- 3195 ~~11-10. Hypodermic syringes, needles, and other objects intended for use or designed for use in~~
- 3196 ~~parenterally injecting controlled substances into the human body;~~
- 3197 ~~12-11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing~~
- 3198 ~~marijuana, cocaine, hashish, or hashish oil into the human body, such as:~~
- 3199 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
- 3200 screens, ~~hashish heads,~~ or punctured metal bowls;
- 3201 b. Water pipes;
- 3202 c. Carburetion tubes and devices;
- 3203 d. Smoking and carburetion masks;
- 3204 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette,~~ that
- 3205 has become too small or too short to be held in the hand;
- 3206 f. Miniature cocaine spoons, and cocaine vials;
- 3207 g. Chamber pipes;
- 3208 h. Carburetor pipes;
- 3209 i. Electric pipes;
- 3210 j. Air-driven pipes;
- 3211 k. Chillums;
- 3212 l. Bongs;
- 3213 m. Ice pipes or chillers.

3214 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3215 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
3216 other relevant evidence, the following:

- 3217 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 3218 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
3219 known to the accused;
- 3220 3. Instructions, oral or written, provided with the object concerning its use;
- 3221 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
- 3222 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 3223 6. The manner in which the object is displayed for sale;
- 3224 7. Whether the accused is a legitimate supplier of like or related items to the community, such as
3225 a licensed distributor or dealer of tobacco products;
- 3226 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
3227 business enterprise;
- 3228 9. The existence and scope of legitimate uses for the object in the community;
- 3229 10. Expert testimony concerning its use or the purpose for which it was designed; and
- 3230 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
3231 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
3232 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is
3233 intended for use or designed for use as drug paraphernalia.

3234 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3235 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
3236 circumstances where one reasonably should know, that it is either designed for use or intended by such
3237 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
3238 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
3239 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a Class
3240 1 misdemeanor.

3241 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
3242 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class
3243 6 felony.

3244 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor
3245 ~~shall be~~ is guilty of a Class 1 misdemeanor.

3246 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3247 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony
3248 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife
3249 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
3250 is guilty of a Class 4 felony.

3251 **§ 18.2-308.012. Prohibited conduct.**

3252 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
3253 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
3254 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
3255 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of
3256 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
3257 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
3258 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
3259 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
3260 apply for a concealed handgun permit for a period of five years.

3261 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
3262 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption
3263 has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an
3264 alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises
3265 of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor.
3266 However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

3267 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3268 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
3269 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously
3270 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
3271 constitutes a separate and distinct felony.

3272 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
3273 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with
3274 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class
3275 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be
3276 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate
3277 and apart from, and shall be made to run consecutively with, any punishment received for the commission
3278 of the primary felony.

3279 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
3280 or other firearm or display such weapon in a threatening manner while committing or attempting to commit
3281 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
3282 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-
3283 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and
3284 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
3285 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
3286 from, and shall be made to run consecutively with, any punishment received for the commission of the
3287 primary felony.

3288 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
3289 **penalties.**

3290 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
3291 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
3292 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
3293 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the

3294 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-
3295 6555, he is guilty of a Class 1 misdemeanor.

3296 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
3297 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
3298 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
3299 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
3300 misdemeanor.

3301 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
3302 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer,
3303 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any
3304 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~
3305 ~~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~~
3306 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3307 D. Any person who knowingly and willfully makes any materially false statement or representation
3308 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
3309 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3310 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
3311 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
3312 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
3313 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
3314 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
3315 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such
3316 communication knows or should know that he is not free to leave.

3317 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3318 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
3319 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
3320 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the

3321 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled
3322 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana
3323 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver
3324 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
3325 explosives of any nature is guilty of a Class 3 felony.

3326 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3327 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
3328 **authorizing interception of communications.**

3329 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates
3330 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
3331 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
3332 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
3333 communications by the Department of State Police, when such interception may reasonably be expected
3334 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
3335 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)
3336 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
3337 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
3338 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit
3339 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for
3340 authorization for the observation or monitoring of the interception by a police department of a county or
3341 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be
3342 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

3343 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3344 1. In the case of an application for a wire or electronic interception, a judge of competent
3345 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable
3346 cause to believe that an offense was committed, is being committed, or will be committed or the person
3347 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic

3348 communication system, maintain an address or a post office box, or are making the communication within
3349 the territorial jurisdiction of the court.

3350 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have
3351 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
3352 offense was committed, is being committed, or will be committed or the physical location of the oral
3353 communication to be intercepted is within the territorial jurisdiction of the court.

3354 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
3355 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
3356 jurisdiction where the order is entered, regardless of the physical location or the method by which the
3357 communication is captured or routed to the monitoring location.

3358 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3359 A. The following officers shall have the powers of arrest as provided in this section:

- 3360 1. Members of the State Police force of the Commonwealth;
- 3361 2. Sheriffs of the various counties and cities, and their deputies;
- 3362 3. Members of any county police force or any duly constituted police force of any city or town of
3363 the Commonwealth;
- 3364 4. The Commissioner, members and employees of the Marine Resources Commission granted the
3365 power of arrest pursuant to § 28.2-900;
- 3366 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3367 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
3368 petty officers authorized under § 29.1-205 to make arrests;
- 3369 7. Conservation officers appointed pursuant to § 10.1-115;
- 3370 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
3371 appointed pursuant to § 46.2-217;
- 3372 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
3373 Control Authority;

3374 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
3375 23.1; and

3376 11. Members of the Division of Capitol Police.

3377 B. Such officers may arrest without a warrant any person who commits any crime in the presence
3378 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
3379 committed a felony not in his presence.

3380 Such officers may arrest without a warrant any person whom the officer has probable cause to
3381 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
3382 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
3383 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
3384 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
3385 officer.

3386 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
3387 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
3388 in such accident has been transported, or in the apprehension of any person charged with the theft of any
3389 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
3390 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
3391 crime has been committed by any person then and there present, apprehend such person without a warrant
3392 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
3393 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
3394 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

3395 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
3396 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
3397 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
3398 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
3399 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
3400 within three hours of the alleged offense, arrest without a warrant at any location any person whom the

3401 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
3402 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

3403 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in
3404 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,
3405 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
3406 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
3407 reasonably accurate description of such person wanted and the crime alleged.

3408 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not
3409 committed in his presence when the officer receives a radio message from his department or other law-
3410 enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

3411 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
3412 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
3413 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
3414 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
3415 when such property is located on premises used for business or commercial purposes, or a similar local
3416 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
3417 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
3418 section for a misdemeanor violation involving shoplifting.

3419 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3420 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
3421 19.2-81, persons for crimes involving:

- 3422 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3423 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3424 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or ~~§ 18.2-~~
3425 474.1; and
- 3426 ~~(d)~~ 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,
3427 or security of the population of a correctional institution.

3428 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3429 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3430 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
3431 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
3432 or any other employee in any local school division in the Commonwealth for a felony or a Class 1
3433 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the division
3434 safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in which such
3435 person is employed as soon as practicable but no later than 48 hours after such arrest. The contents of the
3436 report required pursuant to this subsection shall be utilized by the local school division solely to implement
3437 the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

3438 B. The report required pursuant to subsection A shall be transmitted to the division safety official
3439 (i) via certified mail, return receipt requested, to the mailing address identified by the division
3440 superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and
3441 email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any
3442 certified mail return receipt shall be retained in the case file.

3443 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to
3444 Virginia Employment Commission records, each arresting official shall request in writing that the Virginia
3445 Employment Commission provide the name of the current employer of each person arrested for an offense
3446 set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

3447 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3448 officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as
3449 practicable, with the division superintendent of the school division in which the student is enrolled upon
3450 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
3451 any local school division in the Commonwealth for:

3452 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
3453 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;

3454 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

- 3455 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
3456 Title 18.2;
- 3457 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 3458 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
3459 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 3460 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ Chapter 11 (§ ~~18.2-247~~ 4.1-
3461 1100 et seq.) ~~of Chapter 7 of Title 18.2~~ 4.1;
- 3462 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 3463 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 3464 9. Robbery pursuant to § 18.2-58;
- 3465 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 3466 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
- 3467 12. An act of violence by a mob pursuant to § 18.2-42.1; or
- 3468 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.
- 3469 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**
- 3470 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article
3471 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement
3472 officer shall be permitted to testify as to the results of field tests that have been approved by the Department
3473 of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§
3474 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing
3475 is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§§ 4.1-600 and~~
3476 18.2-247.
- 3477 B. In any trial for a violation of ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer
3478 shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable
3479 by the Department of Forensic Science pursuant to regulations adopted in accordance with the
3480 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity
3481 of which is at issue, is marijuana provided the defendant has been given written notice of his right to

3482 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall
3483 be provided to the defendant prior to trial.

3484 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or
3485 the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he
3486 may, by motion prior to trial before the court in which the charge is pending, request such a chemical
3487 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of
3488 Forensic Science in accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order
3489 the method of custody, transfer, and return of evidence submitted for chemical analysis.

3490 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3491 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
3492 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
3493 the final judgment order, provided substantial assistance in investigating or prosecuting another person
3494 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-
3495 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-
3496 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
3497 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
3498 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
3499 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
3500 In determining whether the defendant has provided substantial assistance pursuant to the provisions of
3501 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the
3502 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
3503 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
3504 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger
3505 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the
3506 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,
3507 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not
3508 known to the defendant until more than one year after entry of the final judgment order, (2) information

3509 provided by the defendant within one year of entry of the final judgment order but that did not become
3510 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
3511 information the usefulness of which could not reasonably have been anticipated by the defendant until
3512 more than one year after entry of the final judgment order and which was promptly provided to the
3513 Commonwealth by the defendant after its usefulness was reasonably apparent.

3514 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
3515 **transactions.**

3516 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
3517 the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter
3518 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles,
3519 and all other personal and real property of any kind or character, used in substantial connection with (a)
3520 the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or
3521 distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or~~
3522 ~~possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-~~
3523 ~~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
3524 value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-
3525 248 or for marijuana in violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in
3526 violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to
3527 such an exchange, together with any interest or profits derived from the investment of such money or other
3528 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the
3529 minimum prescribed punishment for the violation is a term of not less than five years.

3530 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
3531 Chapter 22.1 (§ 19.2-386.1 et seq.).

3532 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3533 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
3534 lawful possession of which is not established or the title to which cannot be ascertained, which have come
3535 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-

3536 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
3537 as follows:

3538 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
3539 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
3540 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
3541 Police, or to such police department or sheriff's office for research and training purposes and for
3542 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
3543 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3544 2. In the event no application is made under subdivision 1, the court shall order the destruction of
3545 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
3546 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
3547 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
3548 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
3549 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
3550 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,
3551 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
3552 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal
3553 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
3554 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or
3555 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in
3556 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written
3557 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a
3558 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,
3559 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the
3560 order is directed.

3561 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter
3562 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

3563 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-
3564 386.24.

3565 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
3566 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
3567 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
3568 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not
3569 result in the requesting agency's exceeding the limits allowed by this subsection.

3570 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,
3571 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
3572 inventory of such substance on a monthly basis, which shall include a description and weight of the
3573 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research
3574 and training purposes. A written report outlining the details of the inventory shall be made to the chief
3575 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency
3576 shall detail the substances that were used for research and training pursuant to a court order in the
3577 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with
3578 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,
3579 and manner of destruction.

3580 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3581 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
3582 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
3583 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds
3584 of the substance randomly selected from the seized substance for representative purposes as evidence and
3585 destroy the remainder of the seized substance.

3586 Before any destruction is carried out under this section, the law-enforcement agency shall cause
3587 the material seized to be photographed with identification case numbers or other means of identification
3588 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
3589 party, if known, or his attorney, at least five days in advance that the photography will take place and that

3590 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
3591 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
3592 destruction of the time and place the destruction will occur. Any notice required under the provisions of
3593 this section shall be by first-class mail to the last known address of the person required to be notified. In
3594 addition to the substance retained for representative purposes as evidence, all photographs and records
3595 made under this section and properly identified shall be admissible in any court proceeding for any
3596 purposes for which the seized substance itself would have been admissible.

3597 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
3598 **substances, etc.**

3599 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
3600 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
3601 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
3602 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title
3603 18.2. The court in its order may make provision for ensuring integrity of these items until further order of
3604 the court.

3605 **§ 19.2-389. Dissemination of criminal history record information.**

3606 A. Criminal history record information shall be disseminated, whether directly or through an
3607 intermediary, only to:

3608 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
3609 purposes of the administration of criminal justice and the screening of an employment application or
3610 review of employment by a criminal justice agency with respect to its own employees or applicants, and
3611 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
3612 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
3613 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
3614 of this subdivision, criminal history record information includes information sent to the Central Criminal
3615 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
3616 time employee of the State Police, a police department or sheriff's office that is a part of or administered

3617 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
3618 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
3619 the purposes of the administration of criminal justice;

3620 2. Such other individuals and agencies that require criminal history record information to
3621 implement a state or federal statute or executive order of the President of the United States or Governor
3622 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
3623 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
3624 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
3625 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3626 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
3627 provide services required for the administration of criminal justice pursuant to that agreement which shall
3628 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
3629 security and confidentiality of the data;

3630 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
3631 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
3632 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
3633 security of the data;

3634 5. Agencies of state or federal government that are authorized by state or federal statute or
3635 executive order of the President of the United States or Governor to conduct investigations determining
3636 employment suitability or eligibility for security clearances allowing access to classified information;

3637 6. Individuals and agencies where authorized by court order or court rule;

3638 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
3639 owned, operated or controlled by any political subdivision, and any public service corporation that
3640 operates a public transit system owned by a local government for the conduct of investigations of
3641 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
3642 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a

3643 conviction record would be compatible with the nature of the employment, permit, or license under
3644 consideration;

3645 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
3646 of ~~Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered
3647 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
3648 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
3649 with a conviction record would be compatible with the nature of the employment under consideration;

3650 8. Public or private agencies when authorized or required by federal or state law or interstate
3651 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
3652 members of that individual's household, with whom the agency is considering placing a child or from
3653 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
3654 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
3655 not be further disseminated to any party other than a federal or state authority or court as may be required
3656 to comply with an express requirement of law;

3657 9. To the extent permitted by federal law or regulation, public service companies as defined in §
3658 56-1, for the conduct of investigations of applicants for employment when such employment involves
3659 personal contact with the public or when past criminal conduct of an applicant would be incompatible
3660 with the nature of the employment under consideration;

3661 10. The appropriate authority for purposes of granting citizenship and for purposes of international
3662 travel, including, but not limited to, issuing visas and passports;

3663 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
3664 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
3665 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
3666 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
3667 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
3668 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
3669 program as defined in § 15.2-1713.1;

3670 12. Administrators and board presidents of and applicants for licensure or registration as a child
3671 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
3672 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
3673 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
3674 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
3675 not be further disseminated by the facility or agency to any party other than the data subject, the
3676 Commissioner of Social Services' representative or a federal or state authority or court as may be required
3677 to comply with an express requirement of law for such further dissemination; however, nothing in this
3678 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from
3679 issuing written certifications regarding the results of a background check that was conducted before July
3680 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3681 13. The school boards of the Commonwealth for the purpose of screening individuals who are
3682 offered or who accept public school employment and those current school board employees for whom a
3683 report of arrest has been made pursuant to § 19.2-83.1;

3684 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
3685 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
3686 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
3687 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3688 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
3689 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
3690 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
3691 162.9:1, subject to the limitations set out in subsection E;

3692 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
3693 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
3694 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3695 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
3696 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
3697 forth in § 4.1-622;

3698 18. The State Board of Elections and authorized officers and employees thereof and general
3699 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
3700 respect to voter registration, limited to any record of felony convictions;

3701 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or
3702 his designees for individuals who are committed to the custody of or being evaluated by the Commissioner
3703 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-
3704 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,
3705 treatment, or discharge planning;

3706 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
3707 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
3708 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3709 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
3710 the Department of Education, or the Department of Behavioral Health and Developmental Services for
3711 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
3712 services;

3713 22. The Department of Behavioral Health and Developmental Services and facilities operated by
3714 the Department for the purpose of determining an individual's fitness for employment pursuant to
3715 departmental instructions;

3716 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
3717 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
3718 records information on behalf of such governing boards or administrators pursuant to a written agreement
3719 with the Department of State Police;

3720 24. Public institutions of higher education and nonprofit private institutions of higher education
3721 for the purpose of screening individuals who are offered or accept employment;

3722 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
3723 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
3724 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
3725 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
3726 history record information obtained pursuant to this section or otherwise use any record of an individual
3727 beyond the purpose that such disclosure was made to the threat assessment team;

3728 26. Executive directors of community services boards or the personnel director serving the
3729 community services board for the purpose of determining an individual's fitness for employment, approval
3730 as a sponsored residential service provider, permission to enter into a shared living arrangement with a
3731 person receiving medical assistance services pursuant to a waiver, or permission for any person under
3732 contract with the community services board to serve in a direct care position on behalf of the community
3733 services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3734 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
3735 determining an individual's fitness for employment, approval as a sponsored residential service provider,
3736 permission to enter into a shared living arrangement with a person receiving medical assistance services
3737 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
3738 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-
3739 506.1, and 37.2-607;

3740 28. The Commissioner of Social Services for the purpose of locating persons who owe child
3741 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
3742 the name, address, demographics and social security number of the data subject shall be released;

3743 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
3744 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
3745 purpose of determining if any applicant who accepts employment in any direct care position or requests
3746 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
3747 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
3748 under contract with the provider to serve in a direct care position has been convicted of a crime that affects

3749 his fitness to have responsibility for the safety and well-being of individuals with mental illness,
3750 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
3751 37.2-607;

3752 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
3753 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
3754 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3755 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
3756 Committee for Courts of Justice for the purpose of determining if any person being considered for election
3757 to any judgeship has been convicted of a crime;

3758 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
3759 determining an individual's fitness for employment in positions designated as sensitive under Department
3760 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

3761 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
3762 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
3763 Violent Predators Act (§ 37.2-900 et seq.);

3764 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
3765 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
3766 companies, for the conduct of investigations of applications for employment or for access to facilities, by
3767 contractors, leased laborers, and other visitors;

3768 35. Any employer of individuals whose employment requires that they enter the homes of others,
3769 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

3770 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
3771 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
3772 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
3773 subject to the restriction that the data shall not be further disseminated by the agency to any party other
3774 than a federal or state authority or court as may be required to comply with an express requirement of law
3775 for such further dissemination, subject to limitations set out in subsection G;

3776 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
3777 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
3778 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
3779 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
3780 administered by the Department of Medical Assistance Services;

3781 38. The State Corporation Commission for the purpose of investigating individuals who are current
3782 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
3783 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
3784 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
3785 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
3786 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
3787 applicant or its designee;

3788 39. The Department of Professional and Occupational Regulation for the purpose of investigating
3789 individuals for initial licensure pursuant to § 54.1-2106.1;

3790 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
3791 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
3792 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
3793 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

3794 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

3795 42. The State Treasurer for the purpose of determining whether a person receiving compensation
3796 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

3797 43. The Department of Education or its agents or designees for the purpose of screening individuals
3798 seeking to enter into a contract with the Department of Education or its agents or designees for the
3799 provision of child care services for which child care subsidy payments may be provided;

3800 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
3801 of a juvenile's household when completing a predispositional or postdispositional report required by §
3802 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

3803 45. The State Corporation Commission, for the purpose of screening applicants for insurance
3804 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

3805 46. Administrators and board presidents of and applicants for licensure or registration as a child
3806 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
3807 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
3808 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
3809 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
3810 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
3811 representative, or a federal or state authority or court as may be required to comply with an express
3812 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed
3813 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications
3814 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §
3815 22.1-289.039;

3816 47. The National Center for Missing and Exploited Children for the purpose of screening
3817 individuals who are offered or accept employment or will be providing volunteer or contractual services
3818 with the National Center for Missing and Exploited Children; and

3819 48. Other entities as otherwise provided by law.

3820 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
3821 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
3822 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
3823 designated in the order on whom a report has been made under the provisions of this chapter.

3824 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
3825 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
3826 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
3827 copy of conviction data covering the person named in the request to the person making the request;
3828 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
3829 making of such request. A person receiving a copy of his own conviction data may utilize or further

3830 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
3831 subject, the person making the request shall be furnished at his cost a certification to that effect.

3832 B. Use of criminal history record information disseminated to noncriminal justice agencies under
3833 this section shall be limited to the purposes for which it was given and may not be disseminated further,
3834 except as otherwise provided in subdivision A 46.

3835 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
3836 history record information for employment or licensing inquiries except as provided by law.

3837 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
3838 Exchange prior to dissemination of any criminal history record information on offenses required to be
3839 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
3840 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
3841 time is of the essence and the normal response time of the Exchange would exceed the necessary time
3842 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
3843 history record information that is required to be reported to the Central Criminal Records Exchange may
3844 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
3845 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
3846 justice agency maintaining the record as required by § 15.2-1722.

3847 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
3848 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
3849 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

3850 F. Criminal history information provided to licensed assisted living facilities and licensed adult
3851 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
3852 for any offense specified in § 63.2-1720.

3853 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
3854 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
3855 of barrier crime in § 19.2-392.02.

3856 H. Upon receipt of a written request from an employer or prospective employer, the Central
3857 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
3858 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
3859 in the request to the employer or prospective employer making the request, provided that the person on
3860 whom the data is being obtained has consented in writing to the making of such request and has presented
3861 a photo-identification to the employer or prospective employer. In the event no conviction data is
3862 maintained on the person named in the request, the requesting employer or prospective employer shall be
3863 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
3864 forms provided by the Exchange.

3865 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
3866 information pursuant to the rules of court for obtaining discovery or for review by the court.

3867 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
3868 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
3869 **dissemination of criminal history record information; prohibited practices by employers,**
3870 **educational institutions, and state and local governments; penalty.**

3871 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor
3872 violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged
3873 under-~~§§~~ former § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-
3874 251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or
3875 otherwise disclosed, provided that such records may be disseminated (i) to make the determination as
3876 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of
3877 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article
3878 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to §
3879 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to
3880 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established
3881 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173
3882 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving

3883 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
3884 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
3885 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to
3886 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi)
3887 to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a
3888 part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible
3889 for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
3890 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the
3891 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time
3892 employee of the State Police or a police department or sheriff's office that is a part of or administered by
3893 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-
3894 time or part-time employment with the State Police or a police department or sheriff's office that is a part
3895 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health
3896 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with
3897 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time
3898 or part-time employee of the Department of Forensic Science for the purpose of screening any person for
3899 full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-
3900 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety
3901 official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for
3902 the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
3903 medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of
3904 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as
3905 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor
3906 Carrier Safety Administration.

3907 B. An employer or educational institution shall not, in any application, interview, or otherwise,
3908 require an applicant for employment or admission to disclose information concerning any arrest, criminal
3909 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction

3910 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
3911 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
3912 any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or
3913 conviction is not open for public inspection pursuant to subsection A.

3914 C. Agencies, officials, and employees of the state and local governments shall not, in any
3915 application, interview, or otherwise, require an applicant for a license, permit, registration, or
3916 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
3917 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
3918 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
3919 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
3920 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
3921 inspection pursuant to subsection A. Such an application may not be denied solely because of the
3922 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

3923 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
3924 violation.

3925 **§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
3926 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
3927 **dissemination of criminal history record information; prohibited practices by employers,**
3928 **educational institutions, and state and local governments; penalty.**

3929 A. Criminal history record information contained in the Central Criminal Records Exchange,
3930 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of
3931 former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under ~~§§~~ former
3932 § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be
3933 open for public inspection or otherwise disclosed, provided that such records may be disseminated and
3934 used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility
3935 to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in
3936 the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for

3937 its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department
3938 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
3939 thereof for the purpose of screening any person for full-time or part-time employment with, or to be a
3940 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
3941 by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his
3942 designee for the purpose of screening any person who applies to be a volunteer with or an employee of an
3943 emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time
3944 employee of the Department of Forensic Science for the purpose of screening any person for full-time or
3945 part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer
3946 of a locality, or his designee who shall be an individual employed as a public safety official of the locality,
3947 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of
3948 screening any person who applies to be a volunteer with or an employee of an emergency medical services
3949 agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of
3950 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R.
3951 § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
3952 Administration; (ix) to any employer or prospective employer or its designee where federal law requires
3953 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective
3954 employer or its designee where the position that a person is applying for, or where access to the premises
3955 in or upon which any part of the duties of such position is performed or is to be performed, is subject to
3956 any requirement imposed in the interest of the national security of the United States under any security
3957 program in effect pursuant to or administered under any contract with, or statute or regulation of, the
3958 United States or any Executive Order of the President; (xi) to any person authorized to engage in the
3959 collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting
3960 such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set
3961 forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court,
3962 Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office
3963 of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee

3964 for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person
3965 for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the
3966 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a
3967 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
3968 employer or prospective employer or its designee that is allowed access to such sealed records in
3969 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant
3970 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)
3971 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the
3972 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,
3973 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as
3974 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized
3975 by law; (xxi) to the Department of Social Services or any local department of social services for purposes
3976 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating
3977 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney
3978 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the
3979 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv)
3980 to the person arrested, charged, or convicted of the offense that was sealed.

3981 B. Except as provided in subsection C, agencies, officials, and employees of state and local
3982 governments, private employers that are not subject to federal laws or regulations in the hiring process,
3983 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for
3984 employment or admission to disclose information concerning any arrest, criminal charge, or conviction
3985 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
3986 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
3987 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
3988 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open
3989 for public inspection pursuant to subsection A.

3990 C. The provisions of subsection B shall not apply if:

3991 1. The person is applying for full-time employment or part-time employment with, or to be a
3992 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
3993 by the Commonwealth or any political subdivision thereof;

3994 2. This Code requires the employer to make such an inquiry;

3995 3. Federal law requires the employer to make such an inquiry;

3996 4. The position, or access to the premises in or upon which any part of the duties of such position
3997 is performed or is to be performed, is subject to any requirement imposed in the interest of the national
3998 security of the United States under any security program in effect pursuant to or administered under any
3999 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

4000 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §
4001 9.1-134 allow the employer to access such sealed records.

4002 D. Agencies, officials, and employees of the state and local governments shall not, in any
4003 application, interview, or otherwise, require an applicant for a license, permit, registration, or
4004 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
4005 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
4006 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
4007 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
4008 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
4009 inspection pursuant to subsection A. Such an application may not be denied solely because of the
4010 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4011 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,
4012 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal
4013 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
4014 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4015 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4016 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4017 conviction is not open for public inspection pursuant to subsection A. Such an application may not be

4018 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4019 criminal charge, or conviction.

4020 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as
4021 defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge,
4022 or conviction against him when the record relating to such arrest, criminal charge, or conviction is not
4023 open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4024 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4025 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4026 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
4027 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4028 criminal charge, or conviction.

4029 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
4030 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
4031 subsections, such application shall include, or such entity or person shall provide, a notice to the applicant
4032 that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection
4033 A does not have to be disclosed in the application. Such notice need not be included on any application
4034 for one or more of the purposes set forth in subsection C.

4035 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
4036 conviction that is not open for public inspection pursuant to subsection A or any information from such
4037 records among law-enforcement officers and attorneys when such disclosures are made by such officers
4038 or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure
4039 or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth
4040 when related to the prosecution of a separate crime.

4041 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
4042 each violation.

4043 **§ 19.2-392.02. National criminal background checks by businesses and organizations**
4044 **regarding employees or volunteers providing care to children or the elderly or disabled.**

4045 A. For purposes of this section:

4046 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
4047 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
4048 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,
4049 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-
4050 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-
4051 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,
4052 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
4053 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,
4054 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-
4055 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-
4056 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-
4057 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
4058 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
4059 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,
4060 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-
4061 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
4062 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-
4063 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-
4064 480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the
4065 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-
4066 94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of
4067 § 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-
4068 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
4069 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250
4070 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in §
4071 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against

4072 Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of
4073 insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in §
4074 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
4075 Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another
4076 jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is
4077 required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
4078 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4079 "Barrier crime information" means the following facts concerning a person who has been arrested
4080 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
4081 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
4082 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
4083 the disposition of the charge, and any other information that may be useful in identifying persons arrested
4084 for or convicted of a barrier crime.

4085 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
4086 recreation to children or the elderly or disabled.

4087 "Department" means the Department of State Police.

4088 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
4089 or seeks to volunteer for a qualified entity.

4090 "Identification document" means a document made or issued by or under the authority of the
4091 United States government, a state, a political subdivision of a state, a foreign government, political
4092 subdivision of a foreign government, an international governmental or an international quasi-
4093 governmental organization that, when completed with information concerning a particular individual, is
4094 of a type intended or commonly accepted for the purpose of identification of individuals.

4095 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
4096 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
4097 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised

4098 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
4099 operate a qualified entity.

4100 "Qualified entity" means a business or organization that provides care to children or the elderly or
4101 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
4102 pursuant to subdivision A 7 of § 22.1-289.030.

4103 B. A qualified entity may request the Department of State Police to conduct a national criminal
4104 background check on any provider who is employed by such entity. No qualified entity may request a
4105 national criminal background check on a provider until such provider has:

- 4106 1. Been fingerprinted; and
- 4107 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
4108 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
4109 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
4110 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
4111 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
4112 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
4113 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
4114 prompt determination as to the validity of such challenge before a final determination is made by the
4115 Department; and (v) a notice to the provider that prior to the completion of the background check the
4116 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
4117 for whom the qualified entity provides care.

4118 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
4119 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
4120 B, the Department shall make a determination whether the provider has been convicted of or is the subject
4121 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
4122 information, the Department shall access the national criminal history background check system, which
4123 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
4124 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If

4125 the Department receives a background report lacking disposition data, the Department shall conduct
4126 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
4127 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
4128 days.

4129 D. Any background check conducted pursuant to this section for a provider employed by a private
4130 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
4131 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
4132 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

4133 E. Any background check conducted pursuant to this section for a provider employed by a
4134 governmental entity shall be provided to that entity.

4135 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
4136 national criminal background check, the Department and the Federal Bureau of Investigation may each
4137 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
4138 with the fingerprints.

4139 G. The failure to request a criminal background check pursuant to subsection B shall not be
4140 considered negligence per se in any civil action.

4141 **§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing**
4142 **of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of**
4143 **former possession of marijuana offenses.**

4144 A. If a person was convicted of a violation of any of the following sections, such conviction,
4145 including any records relating to such conviction, shall be ordered to be automatically sealed in the manner
4146 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,
4147 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or § 18.2-415.

4148 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be
4149 ordered to be automatically sealed if seven years have passed since the date of the conviction and the
4150 person convicted of such offense has not been convicted of violating any law of the Commonwealth that
4151 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other

4152 state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions
4153 under Title 46.2, during that time period.

4154 C. No conviction listed under subsection a shall be automatically sealed if, on the date of the
4155 conviction, the person was convicted of another offense that is not eligible for automatic sealing under
4156 subsection A.

4157 D. If a person was charged with any criminal offense and such offense concluded with any final
4158 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed
4159 in the manner set forth in § 19.2-392.7.

4160 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
4161 court pursuant to the provisions of § 19.2-392.12.

4162 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**
4163 **products, and gambling.**

4164 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
4165 prescribed by the Board of Education.

4166 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
4167 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
4168 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
4169 educational materials to the Department of Education. The Department of Education shall review and shall
4170 distribute such materials as are approved to the public schools.

4171 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
4172 shall distribute to each local school division educational materials concerning the health and safety risks
4173 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
4174 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
4175 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
4176 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
4177 educational materials.

4178 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the
4179 public schools as prescribed by the Board.

4180 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4181 A. School boards shall expel from school attendance any student whom such school board has
4182 determined, in accordance with the procedures set forth in this article, to have brought a controlled
4183 substance, or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247 onto
4184 school property or to a school-sponsored activity. A school administrator, pursuant to school board policy,
4185 or a school board may, however, determine, based on the facts of a particular situation, that special
4186 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion
4187 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee
4188 to conduct a preliminary review of such cases to determine whether a disciplinary action other than
4189 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
4190 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
4191 with the procedures set forth in this article. Nothing in this section shall be construed to require a student's
4192 expulsion regardless of the facts of the particular situation.

4193 B. Each school board shall revise its standards of student conduct to incorporate the requirements
4194 of this section no later than three months after the date on which this act becomes effective.

4195 **§ 23.1-1301. Governing boards; powers.**

4196 A. The board of visitors of each baccalaureate public institution of higher education or its designee
4197 may:

- 4198 1. Make regulations and policies concerning the institution;
- 4199 2. Manage the funds of the institution and approve an annual budget;
- 4200 3. Appoint the chief executive officer of the institution;
- 4201 4. Appoint professors and fix their salaries; and
- 4202 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4203 B. The governing board of each public institution of higher education or its designee may:

- 4204 1. In addition to the powers set forth in Restructured Higher Education Financial and
4205 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
4206 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
4207 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
4208 and administered in the same manner as all other gifts and bequests;
- 4209 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
4210 purposes on any property owned by the institution;
- 4211 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
4212 maintained, or controlled by the institution;
- 4213 4. Adopt regulations or institution policies for the employment and dismissal of professors,
4214 teachers, instructors, and other employees;
- 4215 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
4216 to the regulations or institution policies required pursuant to § 23.1-1303;
- 4217 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
4218 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
4219 by such regulations or policies;
- 4220 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
4221 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
4222 the awareness and prevention of sexual crimes committed upon students;
- 4223 8. Establish guidelines for the initiation or induction of students into any social fraternity or
4224 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;
- 4225 9. Assign any interest it possesses in intellectual property or in materials in which the institution
4226 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
4227 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
4228 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
4229 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
4230 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and

4231 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
4232 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
4233 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
4234 In the event the Governor does not approve such transfer, the materials shall remain the property of the
4235 respective institutions and may be used and developed in any manner permitted by law;

4236 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
4237 electronic communication means pursuant to § 2.2-3708.3; and

4238 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
4239 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
4240 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
4241 statutes and local ordinances with respect to offenses occurring on the property of the institution.

4242 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4243 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification
4244 card, vehicle registration, certificate of title, or other document issued by the Department if such person
4245 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
4246 entitled thereto, including obtaining any document issued by the Department through the use of
4247 counterfeit, forged, or altered documents.

4248 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,
4249 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

4250 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
4251 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
4252 provisions of subsection A.

4253 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
4254 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
4255 of any document issued by the Department for the purpose of engaging in any age-limited activity,
4256 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.

4257 However, if a person is charged and convicted of any other violation of this section, such offense shall
4258 constitute a Class 6 felony.

4259 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
4260 identification card, vehicle registration, certificate of title, or other document issued by the Department
4261 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
4262 notice of the cancellation to the address of record maintained by the Department.

4263 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
4264 **card to obtain alcoholic beverages; penalties.**

4265 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
4266 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United
4267 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
4268 United States Armed Forces identification card; United States passport or foreign government visa;
4269 Virginia Department of Motor Vehicles special identification card; official identification issued by any
4270 other federal, state or foreign government agency; or official student identification card of an institution
4271 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
4272 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
4273 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

4274 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4275 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
4276 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
4277 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such
4278 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
4279 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
4280 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief
4281 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon
4282 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,
4283 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court

4284 that the threat to public safety complained of exists and is likely to continue if such injunction is not
4285 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.
4286 The respondent shall be served with notice of the time and place of the hearing and copies of all
4287 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the
4288 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of
4289 the injunction has been abated by reason of a change of ownership, management, or business operations
4290 at the establishment, or other change in circumstance.

4291 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4292 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia
4293 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an
4294 investigation into the activities at the establishment complained of and conduct an administrative hearing.
4295 After the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4296 hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control
4297 Authority or the Virginia Cannabis Control Authority, regardless of disposition, any injunction issued
4298 hereunder shall be null, without further action by the complainant, respondent, or the court.

4299 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4300 This section shall apply to any person who is not a qualified voter because of a felony conviction,
4301 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
4302 meets the conditions and requirements set out in this section.

4303 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
4304 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-
4305 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)
4306 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
4307 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
4308 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
4309 such petition, the court may approve the petition for restoration to the person of his right if the court is
4310 satisfied from the evidence presented that the petitioner has completed, five or more years previously,

4311 service of any sentence and any modification of sentence including probation, parole, and suspension of
4312 sentence; that the petitioner has demonstrated civic responsibility through community or comparable
4313 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
4314 the same period.

4315 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
4316 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
4317 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
4318 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
4319 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
4320 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
4321 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
4322 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
4323 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
4324 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
4325 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

4326 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
4327 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
4328 vote.

4329 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4330 A. Any person shall be regarded as practicing the healing arts who actually engages in such
4331 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
4332 to the public in any manner a readiness to practice or who uses in connection with his name the words or
4333 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
4334 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
4335 to heal, cure or relieve those suffering from any injury, deformity or disease.

4336 Signing a birth or death certificate, or signing any statement certifying that the person so signing
4337 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or

4338 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
4339 practicing the healing arts within the meaning of this chapter except where persons other than physicians
4340 are required to sign birth certificates.

4341 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
4342 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
4343 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
4344 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
4345 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance
4346 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
4347 that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to
4348 issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

4349 **§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity**
4350 **to Internal Revenue Code.**

4351 A. Any term used in this chapter shall have the same meaning as when used in a comparable
4352 context in the laws of the United States relating to federal income taxes, unless a different meaning is
4353 clearly required.

4354 B. Any reference in this chapter to the laws of the United States relating to federal income taxes
4355 shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other
4356 provisions of the laws of the United States relating to federal income taxes, except for:

4357 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l),
4358 168(m), 1400L, and 1400N of the Internal Revenue Code;

4359 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal
4360 Revenue Code;

4361 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F)
4362 of the Internal Revenue Code;

4363 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income
4364 tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an

4365 "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the
4366 taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless
4367 the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-
4368 taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or
4369 over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable
4370 year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of
4371 the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income
4372 from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

4373 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation
4374 on itemized deductions under § 68(f) of the Internal Revenue Code;

4375 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for
4376 taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income
4377 threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the
4378 deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such
4379 taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed
4380 for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal
4381 adjusted gross income;

4382 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic
4383 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

4384 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act,
4385 P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

4386 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act,
4387 P.L. 116-136 (2020), related to the limitation on business interest;

4388 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2),
4389 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the
4390 federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and

4391 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes,
4392 and basis increases for certain loan forgiveness and other business financial assistance; ~~and~~

4393 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would
4394 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the
4395 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall
4396 not apply to any amendment to federal income tax law that is either subsequently adopted by the General
4397 Assembly or a federal tax extender as defined in subdivision b;

4398 12. For taxable years beginning on and after January 1, 2024, the prohibition on utilizing tax
4399 deductions for ordinary and necessary expenditures made in connection with carrying on a trade or
4400 business licensed in Virginia pursuant to Subtitle II of Title 4.1 (§ 4.1-600 et. seq.) under § 280E of the
4401 Internal Revenue Code.

4402 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine
4403 die of the previous regular session of the General Assembly and the first day of the subsequent regular
4404 session of the General Assembly if the cumulative projected impact of such amendments would increase
4405 or decrease general fund revenues by greater than \$75 million in the fiscal year in which the amendments
4406 were enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply
4407 to any amendment to federal income tax law that is (i) subsequently adopted by the General Assembly,
4408 (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date on which the
4409 cumulative projected impact is met. However, any amendment conformed to pursuant to clause (iii) shall
4410 be included in the calculation of the \$75 million threshold for purposes of determining whether such
4411 threshold has been met.

4412 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually
4413 based on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-
4414 U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor
4415 index for the previous year.

4416 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income
4417 tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the

4418 threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the
4419 expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

4420 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on
4421 Finance and Appropriations and the House Committees on Appropriations and Finance, shall be
4422 responsible for determining whether the criteria of subdivision a are met.

4423 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year
4424 on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of
4425 the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on
4426 Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of
4427 Finance shall also provide updates to the same Chairmen on any further amendments to federal income
4428 tax law occurring between submission of the required report and the first day of the subsequent regular
4429 session of the General Assembly.

4430 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for
4431 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the
4432 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

4433 **§ 59.1-200. Prohibited practices.**

4434 A. The following fraudulent acts or practices committed by a supplier in connection with a
4435 consumer transaction are hereby declared unlawful:

- 4436 1. Misrepresenting goods or services as those of another;
- 4437 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 4438 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
4439 services, with another;
- 4440 4. Misrepresenting geographic origin in connection with goods or services;
- 4441 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,
4442 or benefits;
- 4443 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or
4444 model;

4445 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
4446 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"
4447 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,
4448 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,
4449 imperfects or "not first class";

4450 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
4451 at the price or upon the terms advertised.

4452 In any action brought under this subdivision, the refusal by any person, or any employee, agent,
4453 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
4454 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall
4455 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods
4456 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount
4457 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer
4458 did in fact have or reasonably expected to have at least such quantity or amount for sale;

4459 9. Making false or misleading statements of fact concerning the reasons for, existence of, or
4460 amounts of price reductions;

4461 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or
4462 parts installed;

4463 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
4464 or bill for merchandise or services previously ordered;

4465 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
4466 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
4467 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
4468 goods or services advertised or offered for sale;

4469 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
4470 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,

4471 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or
4472 under federal statutes or regulations;

4473 13a. Failing to provide to a consumer, or failing to use or include in any written document or
4474 material provided to or executed by a consumer, in connection with a consumer transaction any statement,
4475 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.
4476 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection
4477 with the consumer transaction;

4478 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in
4479 connection with a consumer transaction;

4480 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
4481 3.2-6516, or 3.2-6519 is a violation of this chapter;

4482 16. Failing to disclose all conditions, charges, or fees relating to:

4483 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
4484 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
4485 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
4486 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
4487 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
4488 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for
4489 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the
4490 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund
4491 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not
4492 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for
4493 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested
4494 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the
4495 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or
4496 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4497 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the
4498 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
4499 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of
4500 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the
4501 agreement;

4502 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in
4503 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's
4504 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within
4505 60 days of receiving overpayments. If the credit balance information is incorporated into statements of
4506 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is
4507 required;

4508 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
4509 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
4510 agreement;

4511 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

4512 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1
4513 et seq.);

4514 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1
4515 et seq.);

4516 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-
4517 207.17 et seq.);

4518 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

4519 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-
4520 424 et seq.);

4521 24. Violating any provision of § 54.1-1505;

4522 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,
4523 Chapter 17.6 (§ 59.1-207.34 et seq.);

- 4524 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 4525 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 4526 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 4527 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
- 4528 seq.);
- 4529 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40
- 4530 et seq.);
- 4531 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4532 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4533 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4534 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4535 35. Using the consumer's social security number as the consumer's account number with the
- 4536 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
- 4537 with the consumer's social security number;
- 4538 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4539 37. Violating any provision of § 8.01-40.2;
- 4540 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4541 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4542 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4543 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
- 4544 59.1-525 et seq.);
- 4545 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4546 43. Violating any provision of § 59.1-443.2;
- 4547 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4548 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4549 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4550 47. Violating any provision of § 18.2-239;

- 4551 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4552 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
- 4553 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 4554 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 4555 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 4556 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 4557 products that are used, secondhand or "seconds";
- 4558 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4559 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4560 52. Violating any provision of § 8.2-317.1;
- 4561 53. Violating subsection A of § 9.1-149.1;
- 4562 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
- 4563 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
- 4564 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
- 4565 which defective drywall has been permanently installed or affixed;
- 4566 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
- 4567 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-
- 4568 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
- 4569 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
- 4570 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 4571 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4572 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 4573 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 4574 59. Violating any provision of subsection E of § 32.1-126;
- 4575 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession
- 4576 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 4577 61. Violating any provision of § 2.2-2001.5;

- 4578 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 4579 63. Violating any provision of § 6.2-312;
- 4580 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 4581 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 4582 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 4583 67. Knowingly violating any provision of § 8.01-27.5;
- 4584 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option
- 4585 to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30
- 4586 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period
- 4587 to avoid an obligation to pay for the goods or services;
- 4588 69. Selling or offering for sale any substance intended for human consumption, orally or by
- 4589 inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision,
- 4590 "synthetic derivative" means a chemical compound produced by man through a chemical transformation
- 4591 to turn a compound into a different compound by adding or subtracting molecules to or from the original
- 4592 compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S.
- 4593 Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be
- 4594 construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 4595 70. Selling or offering for sale to a person younger than 21 years of age any substance intended
- 4596 for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
- 4597 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
- 4598 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
- 4599 permitted under ~~Chapter 16 Subtitle II~~ (§ ~~4.1-1600~~ 4.1-600 et seq.) of Title 4.1;
- 4600 71. Selling or offering for sale any substance intended for human consumption, orally or by
- 4601 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
- 4602 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
- 4603 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons
- 4604 younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such

4605 substance that constitutes a single serving, and (d) the total percentage and milligrams of
4606 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that
4607 are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an~~
4608 ~~independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International~~
4609 ~~Organization of Standardization by a third party accrediting body~~ a licensed marijuana testing facility,
4610 that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
4611 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
4612 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
4613 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under
4614 ~~Chapter 16 (§ 4.1-1600 et seq.)~~ Subtitle II (§ 4.1-600 et seq.) of Title 4.1;

4615 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as
4616 defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing
4617 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

4618 73. Selling or offering for sale any substance intended for human consumption, orally or by
4619 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container
4620 or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined
4621 in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a
4622 manufacturer, processor, packer, or distributor of a product intended for human consumption other than
4623 the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or
4624 distribute such substance;

4625 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not
4626 include a label stating that the product is not intended for human consumption. This subdivision shall not
4627 (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4628 scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted
4629 under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were
4630 manufactured prior to July 1, 2023, provided that the person provides documentation of the date of
4631 manufacture if requested;

- 4632 75. Violating any provision of § 59.1-466.8;
- 4633 76. Violating subsection F of § 36-96.3:1;
- 4634 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or
- 4635 (ii) any kratom product that does not include a label listing all ingredients and with the following guidance:
- 4636 "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to
- 4637 diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the
- 4638 leaf of the plant *Mitragyna speciosa* or any extract thereof; and
- 4639 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45,
- 4640 to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale
- 4641 of any such good or provision of any such continuous service.
- 4642 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
- 4643 lease solely by reason of the failure of such contract or lease to comply with any other law of the
- 4644 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
- 4645 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such
- 4646 contract or lease.
- 4647 **2. That §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.**
- 4648 **3. That the following provisions shall become effective on January 1, 2025: (i) §§ 3.2-4113, 4.1-1121,**
- 4649 **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-**
- 4650 **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,**
- 4651 **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-**
- 4652 **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-**
- 4653 **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,**
- 4654 **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**
- 4655 **act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-**
- 4656 **1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309 of the Code of Virginia, as created by this**
- 4657 **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 repealed**
- 4658 **by this act.**

4659 4. That the Virginia Cannabis Control Authority (the Authority) may, on and after July 1, 2024,
4660 begin accepting license applications from all applicants, including pharmaceutical processors and
4661 cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title
4662 4.1 of the Code of Virginia and industrial hemp processors or growers that are registered with the
4663 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.)
4664 of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-1000 of
4665 the Code of Virginia, as created by this act. Notwithstanding the third enactment of this act, any
4666 applicant issued a license by the Authority may operate in accordance with the provisions of this
4667 act prior to January 1, 2025; however, prior to January 1, 2025, no licensee may engage in the retail
4668 sale of marijuana, marijuana products, immature marijuana plants, or marijuana seeds.
4669 Notwithstanding any other provision of law, on or after July 1, 2024, and prior to January 1, 2025,
4670 no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana
4671 transporter licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent
4672 or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-
4673 1100 et seq.) of Title 4.1 of the Code of Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-
4674 255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this
4675 act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such
4676 violation is related to acts committed within the scope of the licensure or employment and in
4677 accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of
4678 Virginia) and this enactment. From July 1, 2024, to July 1, 2029, the Authority shall reserve license
4679 slots for all pharmaceutical processors that have been issued a permit by the Board of Directors (the
4680 Board) of the Authority pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of
4681 Virginia and issue a cultivation, processing, transporter, and retail license to any such
4682 pharmaceutical processor that meets the applicable licensing requirements. The Board shall not
4683 permit any marijuana cultivation facility licensee to engage in the outdoor growth of marijuana
4684 plants until the Board has promulgated regulations governing outdoor growth pursuant to § 4.1-
4685 606 of the Code of Virginia, as amended by this act.

4686 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-
4687 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4688 6. That the Virginia Cannabis Control Authority shall (i) analyze whether any limits should be
4689 placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze and
4690 identify an appropriate canopy size for pharmaceutical processors that also hold a marijuana
4691 cultivation facility license, and (iii) report its finding to the General Assembly by November 1, 2024.

4692 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
4693 promulgate regulations to implement the provisions of this act by December 31, 2024. With the
4694 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process
4695 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
4696 thereto shall apply to the Board's initial adoption of such regulations.

4697 8. That the provisions of this act may result in a net increase in periods of imprisonment or
4698 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
4699 appropriation is _____ for periods of imprisonment in state adult correctional facilities;
4700 therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia
4701 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-
4702 19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for
4703 periods of commitment to the custody of the Department of Juvenile Justice.

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